

Leominster Zoning Ordinance



July 10, 2001

Adopted by the City Council on July 10, 2001

With Amendments through September 12, 2005
With Map Appendix through March 27, 2006

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CHAPTER 22 OF THE REVISED ORDINANCES

ZONING

ARTICLE I GENERAL REGULATIONS

Section 22-1 Zoning Ordinance

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the City of Leominster, Massachusetts,” hereafter referred to as “the Zoning Ordinance.”

Section 22-2 Authority

The Zoning Ordinance is adopted pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts as amended through December 22, 1977, hereafter called “The Zoning Act.” Where the Zoning Act is amended from time to time after the effective date of this Zoning Ordinance and where such amendments are mandatory, such amendments shall supersede any conflicting regulations of the Zoning Ordinance which are based on the Zoning Act in existence at the effective date of the Zoning Ordinance.

Section 22-3 Purpose

The purpose of the Zoning Ordinance is to promote the health, safety, convenience, morals and welfare of the present and future inhabitants of the City of Leominster; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, open space and other public requirements; to encourage housing for persons of all income levels; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the City’s amenities and to encourage an orderly expansion of the tax base by utilization, development, and redevelopment of land.

To achieve this end, the Zoning Ordinance seeks to permit, prohibit, regulate, or restrict:

1. Uses of land, including wetlands and land deemed subject to seasonal or periodic flooding.
2. Size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of Sections 29 - 33 inclusive of Chapter 93 and to Chapter 93D of the Massachusetts General Laws.
3. Uses of bodies of water, including water courses.
4. Noxious uses.
5. Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses, structures, courts, yards, and open spaces.
6. Density of population and intensity of use.
7. Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space.

Section 22-4 Definitions

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them

by this section:

Abandonment. The cessation of a nonconforming use or structure as indicated by the visible or otherwise indicated intention to discontinue a nonconforming use of a structure or a lot, or the cessation of a nonconforming use or structure by its replacement with a conforming use or structure.

Accessory building. A subordinate building located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land.

Accessory use. A use customarily incidental to that of the main building or to the use of the land.

Active recreation/amusement. Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, video and other matter which are characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL section thirty-one of Chapter two hundred and seventy-two.

Adult Cabaret. A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL section thirty-one of chapter two hundred and seventy-two.

Adult Dance Club. An establishment that, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in MGL section thirty-one of chapter two hundred and seventy-two.

Adult Motion Picture Theater. An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL section twenty-one of chapter two hundred and seventy-two.

Adult Paraphernalia Store. An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual intercourse, sexual conduct or sexual excitement as defined in MGL section thirty-one of chapter two hundred and seventy-two.

Adult Theater. A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by their emphasis depicting, describing, or relating, to sexual conduct or sexual excitement as defined in MGL section thirty-one of chapter two hundred and seventy-two.

Adult Video Store. An establishment having, as a substantial or significant portion of its stock in-trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL section thirty-one of chapter two hundred and seventy-two.

Adult Entertainment Use. The above-defined "Adult" uses may collectively be referred to as "Adult Entertainment Uses". Further, if 10% or more of an establishment's stock and/or trade is devoted to matters which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. section thirty-one of chapter two hundred and seventy-two, then the establishment is deemed to be an adult entertainment use and is governed by the regulations as outlined in this Ordinance.

Affordable Housing. Housing that is available for low and moderate income households.

Agriculture. The production, keeping or maintenance, for sale or lease, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry

and poultry products; livestock including beef cattle, swine, horses, mules, ponies, or goats or any mutations of hybrids hereof, including the breeding and grazing of any or all such animals, bees, and apiary products, for animals, trees and forest products; fruits of all kinds, including grapes, nuts and berries, vegetables, floral, nursery, ornamental and greenhouse products, or lands devoted to a soil conservation or forestry management program.

Alteration. Any construction, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

Amusement and recreation services. Establishments engaged in providing amusement or entertainment for a fee or admission charge and include, but are not limited to, the following activities: dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys and billiards and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; swimming pools; carnival operations; and game parlors.

Antenna. The surface from which wireless radio signals are sent and received by a Wireless Communications Facility.

Apartment/multi-family dwelling. Any structure regardless of tenure designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

Aquifer. A saturated geologic unit that is permeable enough to yield economic quantities of water to wells.

Awning. A roof like covering, as of canvas, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

Basement. A portion of a building, partly below grade, which has more than one-half of its height, measuring from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four feet, six inches (4'6") or more above the average finished grade.

Boarder. An individual, other than a member of a family occupying a dwelling unit, who occupies a rooming unit, for living and sleeping but not for cooking and eating purposes, and paying rent, which may include an allowance for meals, by prearrangement for a week or more at a time to an owner or operator to whom he/she is not related by blood, marriage or adoption.

Boarding/lodging house. A dwelling, or part thereof, which is divided into four or more lodgings or for let by boarders.

Building. A combination of any materials, whether portable or fixed, with or without a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals, or property.

Building area. The aggregate of the maximum horizontal cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces. Such cornices, eaves, gutters, chimneys, steps, unenclosed and uncovered porches, bay windows, balconies and terraces may extend beyond the minimum yard requirements as established in Section 22-27, but in no case shall such extension be in excess of 5' beyond the minimum yard requirements.

Building coverage. The building area expressed as a percent of the total lot area.

Building, detached. A building which is not attached to any other dwelling by any means and is surrounded by open space or yards on all sides.

Business and Professional Office. The place where a particular kind of business or service for others is transacted.

Business and Professional Office Building. The structure in which one or more offices is located.

Business services. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, including but not limited to the following: advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing and commercial research.

Camouflaged. Disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

Canopy. Any overhanging shelter or shade.

Carport. A roofed structure, unenclosed on two or more sides, which may serve as a shelter for motor vehicles.

Carrier. A company that provides wireless services.

Cellar. A portion of a building, partly or entirely below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

Certificate of occupancy. The certificate issued by the Director of Inspections which permits the use of a building in accordance with approved plans and in compliance with the Zoning Ordinance.

Childcare facility. Facilities that serve children under seven years of age or sixteen years if the children have special needs, or school-age children (under fourteen years of age or sixteen years if they have special needs) in programs that are held before or after school hours or during vacations.

Co-Location. The use of a single mount on the ground by more than one carrier (vertical co-location) and or several mounts on an existing building or structure by more than one carrier.

Commencing building activity. The stage of building activity at which, in the opinion of the governing board, substantial manmade construction materials critical to the building's or site's functioning have been permanently installed, OR in cases where commencing such activity has been hindered due to circumstances beyond the control of the owner, a stage of building activity where, in the opinion of the governing board, proof can be shown that construction will unconditionally occur within six months.

Commercial vehicle. Any cart or wagon or any vehicle which is included in the definition of a motor vehicle given in Chapter 10 of the General Laws, including but not limited to passenger car or van on which is permanently affixed any writing to designate the business or professional use or affiliation of said car or van, or any truck or other vehicle which would be classified other than a passenger vehicle for purposes of registration in the Commonwealth of Massachusetts or an auto home or bus, but excluding a passenger car not marked for business use.

Condominium. A multi-unit structure where each separate unit is under separate ownership.

Continuing Care Retirement Community/Assisted Living Facility. A residential care institution intended for occupancy by persons of advanced age (greater than fifty-five (55) years) or limited ability for self care, which may provide food, transportation, recreation, or other services to the residents thereof. The term shall include boarding houses, dormitories, apartments, and similar multiple residence living arrangements when operated as an assisted living facility as defined herein, but shall not include group homes for the handicapped, adult care homes, nursing homes, hospitals, or hotels.

Conversions. External and internal changes to a structure that increase the number of dwelling units in the structure, not to exceed the number of units per structure allowed in the district.

Drive-in/Drive through restaurant. A place of business operated for the sale and purchase at retail of food and/or beverages, any part of which is laid out or equipped so as to deliver prepared food and/or beverages to patrons in motor vehicles or to permit patrons to purchase prepared food and/or beverages for consumption or where the patron customarily drives a motor vehicle onto the site and to a window or mechanical drive-through by which the patron is served without exiting the vehicle. Prior to service, the engine of the motor vehicle customarily remains in operation.

Driveway. An area on a lot which: is for the passage of motor vehicles (and not for storing or standing of such vehicles except where serving four or fewer parking spaces), has an all-weather surface, provides access and egress to and from a street, or interior drive, and leads to or from a parking space or loading bay (or their related maneuvering aisle).

Duplex house. A house containing two dwelling units adjoining side by side; that is, in which no part of one dwelling unit is over any part of the other dwelling unit. A duplex shall be considered as one (1) principal building occupying one (1) lot for the purpose of determining yard requirements.

Dwelling unit. A room or group of rooms forming a habitable unit for one (1) family, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Equipment Shelter. An enclosed structure, cabinet, shed, or box, at the base of the mount within which are housed batteries and electrical equipment.

Fall Zone. The area on the ground within a prescribed radius from the base of a Wireless Communications Facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Family. An individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants. A group of individuals not related by blood, marriage, or legal adoption, but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four (4) individuals shall constitute a single family.

Family home day care. Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six, including participating children living in the residence. Family home day care shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

Farm. A place of land devoted to raising of crops or livestock or to any specific agricultural projects, as a dairy farm, such crops or livestock or portion thereof to be offered for sale.

Floodway. The area subject to periodic flooding, the limits of which are determined by the flood line, as shown on the federal flood insurance rate maps dated September 16, 1982 and April 3, 1989.

Floor area, gross. The sum, in square feet, of the horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings. Where the text of this Ordinance refers to floor area, the term shall mean gross floor area unless the term net floor area is used.

Floor area, net. The sum, in square feet, of the occupiable or habitable area in a building, which shall be determined by excluding the following from calculation of gross floor area:

- a. Areas used for parking or loading.

- b. Areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment.
- c. The thickness of load bearing walls, at each floor.
- d. Elevator shafts and common stairways, and common hallways at each floor.
- e. Porches, balconies, fire escapes which are unroofed.

Floor area, ratio (FAR). The ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot.

Frontage, lot. The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access and to which the owner could provide for vehicular access from a principal building or a required parking space. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in street line, and, in the case of a corner lot, may at the option of the owner extend to the midpoint of the curve connecting street lines, instead of to their intersection.

Frontage street. A street to which the owner of the lot has a legal right of access and which provides the required lot frontage. When a lot is bounded by more than one street, any one of them but only one may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

Funeral establishment. An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therein before burial or cremation.

Garage, private. A building used for the storage of one or more automobiles owned and used by the owner or tenant of the lot on which it is erected for a purpose accessory to the use of the lot.

Garage, public. A building or structure for the storage or parking of more than three (3) passenger motor vehicles or motor powered boats or more than one (1) commercial motor vehicle, and in which provisions may be made for the dispensing of gasoline, oil, or similar products for the servicing of such vehicles and in which provisions may be made for the repair and servicing of these vehicles. Public garages shall further be classified according to the following specific types and uses.

- a. Parking garage. A building used for the parking of motor vehicles. Gas may be dispensed, but not other servicing or repairing of vehicles shall be permitted.
- b. Motor vehicle service station. A building used for the servicing and minor repair of motor vehicles including such uses as engine tune-ups, dispensing of gas, oil, and other similar products, and the installation and repair of automotive accessories such as radios, burglar alarms, and other electronic devices.
- c. Repair garage. A building used for the major repair of motor vehicles including such uses as transmission repair, engine overhaul, and auto body work.

Groundwater. Water beneath the surface of the ground whether or not flowing through known and definite channels.

Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Hazardous or toxic material. A material which is hazardous to human health or the environment.

Health Care Overlay District Definitions:

- a. **Development Envelope.** The boundary, established by the City Council in accordance with the procedures set forth in M.G. L. Ch. 40A, Sec. 5, of the area within a designated HC Overlay District within which boundary development may occur in accordance with the provisions of Article XII without a Special Permit issued by the Special Permit Granting Authority pursuant to subsection 96.4.
- b. **Development Limit.** The aggregate net floor area of any new building or structure for any principal Health Care Use that may be constructed within a specific Development Envelope after the designation of such Development Envelope, without Site Plan Approval under subsection 96.3.
- c. **Health Care Use.** A Hospital, a Medical Laboratory, a Medical Office, a Nursing or Convalescent Home, an Out-Patient Clinic or a Pharmacy.
- d. **Hospital.** A facility for the provision of health care services, licensed as an acute, sub-acute or chronic care facility by an appropriate governmental authority if and to the extent required by applicable law, including a facility for the provision of health care services eligible for reimbursement under any governmental or private insurance or other program for payment of any portion of the cost of such service.
- e. **Lot.** The entire property within the boundaries of a particular Health Care Overlay District, whether or not in common ownership, provided that the uses of such property are permitted under Section 22-95.
- f. **Medical Laboratory.** A facility for the provision of testing, analytical, diagnostic, pharmaceutical or other health care support services, equipment or procedures, whether or not owned by or affiliated with a Hospital.
- g. **Medical Office.** The offices of one or more providers of medical, dental, surgical, mental health, rehabilitation or other health care or health care support services, equipment or procedures, whether or not owned by or affiliated with a Hospital.
- h. **Nursing or Convalescent Home.** A facility for the assistance, maintenance, care, treatment or recuperation of mentally or physically handicapped, injured, invalid, convalescent or chronically ill persons on a full- or part-time basis, licensed by an appropriate governmental authority if and to the extent required by applicable law, including independent living facilities, assisted living facilities, continuing care/retirement facilities, congregate living facilities, group care facilities, nursing homes, long-term pediatric or geriatric care facilities, and rehabilitation or physical, psychiatric, psychological, cognitive or behavioral therapy facilities whether or not owned by or affiliated with a Hospital.
- i. **Out-Patient Clinic.** A facility for the provision of ambulatory health care services, licensed for the provision of such services by an appropriate governmental authority if and to the extent required by applicable law, including the sale, servicing or repair of medical devices and equipment to the general public whether or not owned by or affiliated with a Hospital, Out-Patient Clinic or Nursing or Convalescent Home.
- j. **Pharmacy.** A facility for the sale of prescription and/or non-prescription drugs, medications, and medical supplies to patients (whether ambulatory or in-patients) of any physician affiliated with a Hospital or other use in the same HC Overlay District, or to members of any health maintenance organization or health plan affiliated with such Hospital, but shall not mean a retail pharmacy serving the general public.

Height. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof, to the deck of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Home Occupation. An activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. In general, the term “home occupation” shall refer to small businesses that do not require the presence of the consumer of the good or service in order to perform the majority of the production or service and which generate no outward manifestations (such as traffic generation, visible activity, parking, noise) that are unlike

those of dwelling units in the neighborhood. The term “home occupation” shall include, but is not limited to: the studio of an artist, musician, photographer; small group instruction or tutoring; tailoring; millinery; crafts; or headquarters of a salesman, sales representative or manufacturer’s representative; provided that no retail or wholesale transactions are made on the premises. The term “home occupation” shall not be interpreted to include the following: clothing rental, barber shop, hairdresser, restaurant, orchestra or instrumental music group, antique shop, animal hospital, and other similar pursuits. All “recognized professions” (see “Home Office” definition) operating from a residence shall conform to the requirements for “home offices.”

Home office. The office of a physician, dentist, lawyer, architect, registered engineer, accountant, psychologist, or member of a recognized profession resident in the dwelling unit in which the home office is located. A “recognized profession” is a profession in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning, demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and also possessing evidence of professional capability, such as member in a professional society requiring standards of qualification for admission.

Hospital. An institution licensed under Section 51, Chapter 111, G.L., for the purpose of caring for persons admitted thereto for diagnosis, medical, surgical or restorative treatment which is rendered within said institution.

Hotel, Motel. - An establishment providing lodging for 15 or more guests on a short term basis, usually less than one week; dining rooms, function rooms and other support services may be included. In a hotel, access to the individual sleeping rooms, is usually through a lobby and interior corridors; in a motel, access to the individual sleeping rooms, is usually directly from parking spaces or by an exterior walkway.

Interior drive. A roadway which is privately owned and maintained and serves a planned residential or commercial development. It may have many of the street characteristics of a street but does not meet the legal standards for Street, Road or Way as defined in this section. An interior drive is not the same as a driveway, which is the means or access to a parking lot or parking space; an interior drive is the connecting link between a public street and a driveway.

Junk. Waste or scrap articles or material.

Junk yard. Any land used for the deposit, collection or storage of waste, used or discarded things or materials, whether or not in connection with the dismantling, processing, salvage, sale or other use or disposition thereof; and the deposit or storage on any lot of one (1) or more wrecked or inoperative vehicles, or parts thereof, for one month or more shall be deemed to be a junk yard. Garaged vehicles shall be exempt from this provision.

Land. Shall include the words “swamp” and “water.”

Lattice tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Leachable wastes. Waste materials including solid wastes, sludge, sewage, pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Licensed Carrier. An entity or person authorized by the FCC to construct and operate a commercial mobile radio services system.

Loading space. A truck loading or unloading area adjacent to the principal use of the site.

Lodging/rooming unit. A unit in a boarding/lodging house which is let for living and sleeping but not cooking or eating purposes.

Long-term care facility. An institution or distinct part of an institution that is licensed by the Massachusetts Department of Public Health to provide 24-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Lot. A parcel of real estate under one sole or undivided ownership separate from that of any adjoining lots. The word “lot” shall also include the word “plot.”

Maneuvering aisle. An area on a lot which is immediately adjacent to one or more parking spaces or loading bays, is necessary for turning, driving or backing a motor vehicle into such parking space or loading bay, but is not used for the parking or standing of motor vehicles.

Manufacturing. A use primarily for heavy or light industry and the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment or packaging. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities and including manufacturing operations not expressly prohibited nor expressly categorized in any section of this Ordinance are permitted.

Mixed Use Development Project (MUPD). A Business Center, Industrial and Technology Park or Shopping Center being a group of two or more of the following uses: *business and professional offices and buildings, personal and consumer service establishments, retail stores, banks, restaurants including drive-in, allowed industrial manufacturing establishments, industrial research & development facilities, and which may include such other commercial uses as typically found in such Mixed Use Centers and Parks.* A Mixed Use Development Project shall be located on a site that may consist of one or more lots (which lots may be in separate ownership), and shall be planned, developed, owned or managed as defined by a Master Plan and Development Schedule as provided in Section 22-24.2.5. (Amended January 27, 2003)

Monopole. The type of mount that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.

Motor vehicle trip. Use of one motor vehicle by one or more persons which either begins or ends (regardless of the duration of parking or standing) on a lot, or at a use or establishment.

Mount. The structure or surface upon which antennas are mounted, including the following five (5) types of mounts:

- a. Roof-mounted: Mounted on the roof of a building.
- b. Side-mounted: Mounted on the side of a building.
- c. Ground-mounted: Mounted on the ground.
- d. Structure-mounted: Mounted on a structure other than a building.
- e. Interior-mounted: Mounted within a building/structure such that the Wireless Communications Facility is not visible from the exterior of the building/structure.

Multifamily dwelling. (see definition for apartment/multi-family dwelling)

Neighborhood Retail Store. A retail store designed primarily to provide consumer products to the residents of the immediately surrounding neighborhood and conducted in a facility with a floor area not in excess of one-thousand square feet.

Nonconforming building, structure or lot. A building, structure or lot that does not conform to a dimensional regulation prescribed in this Ordinance for the district in which it is located or to other regulations of this Ordinance except use regulations, but which building, structure or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

Non-profit conservation or recreation organization. An organization with IRS 501(c)(3) status whose express purposes include ownership and/or management of property for recreation or conservation purposes.

Nursing, rest or convalescent home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Panel Antenna. A flat surface antenna usually installed in multiples.

Parking lot. An area on a lot which includes 5 or more parking space and their related maneuvering aisle. Where there are 5 or more parking spaces on a lot, regardless of their location on the lot, all such spaces shall be subject to the standards for parking lots.

Parking space. An off-street space in conformance with Article XI.

Penthouse. An apartment or dwelling attached to, built on or sloping from a wall or roof.

Personal and consumer service establishment. Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include, but not be limited to: barber shops, beauty shops, pet grooming establishments; laundering, cleaning and other garment servicing establishments; tailors, dressmaking shops, shoe cleaning or repair shops; health clubs; and other similar places of business, but not including offices of physicians, dentists, and veterinarians, or any other recognized professional.

Poultry farm. A farm with a flock of more than fifty birds.

Radiofrequency Engineer. An engineer specializing in electrical or microwave engineering, especially in the study of radiofrequencies.

Recharge area. That portion of the drainage basin where water enters the saturated zone and the net flow of ground water is directed from the saturated zone to a reservoir or aquifer.

Recreational vehicle or trailer. A registered self-propelled camper or automobile-drawn trailer used as a mobile camping facility, with sleeping equipment, which may or may not have toilet or cooking facilities, and which is used for recreational purposes.

Residential social service facility. A dwelling where care and supervision which is licensed, contracted for, or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. Includes half-way houses but not nursing or foster homes.

Restaurant. An establishment where food and drink is prepared, served and consumed primarily within the principal building.

Retail Store. A business that sells consumer products directly to consumers and may include: Department Stores, Furniture Stores, Hardware Stores, Household Furnishing Stores, Sporting Goods Stores and Electronic Stores and Appliance Stores.

Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Separation. The distance between one carrier's array of antennas and another carrier's array.

Setback. The minimum distance from a lot line to a building placed thereon, or feature thereof as is required in a particular situation by the Table of Dimensional Requirements.

Setback, front. Setback required from a front line and from any street line of a corner lot or a through lot.

Setback line. A line, whether straight or not, which denotes the location of the minimum setback.

Setback, rear. Setback required from a rear line.

Setback, side. Setback required from a side line.

Side line of a lot. A line separating a lot from other lots or from land in a different ownership, other than a street line

or a rear lot line.

Sign. Any permanent or temporary structure, device, letter, work, banner, pennant, insignia, trade flag, streamer, display, emblem or representation used as or which is in the form of an advertisement, announcement or direction, or is designed to attract the eye by any method, which is placed either indoors or out-of-doors on a public way or on private property within view of a public way, public park or reservation, provided, however, that the following shall not be subject to regulation under Article XII:

- a. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
- b. Signs less than two square feet in area containing advertising associated with a nonprofit or charitable organization.
- c. Flags and insignia of any government except when displayed in connection with commercial promotion.
- d. Legal notices, identification, informational or directional signs erected or required by government bodies.
- e. Integral, decorative or architectural features of buildings, except letters, moving parts or moving lights.
- f. Signs directing and guiding traffic and parking signs on private property, but bearing no advertising matter and, in the case of parking signs on private property, not exceeding two square feet in area.
- g. Signs on or in rolling stock used by common carriers, provided that their primary function is not for advertising.
- h. Signs on standard gasoline pumps bearing thereon in standard size and form, the name, type and price of gasoline.
- i. Signs erected for the public safety or as notice for the protection of property.
- j. Displays of merchandise or signs incidental to the display of merchandise.

Sign, area of. The surface area within a single continuous perimeter consisting of straight lines enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted.

Sign, attached. A sign permanently erected or affixed to a building.

Sign, freestanding. A sign permanently erected or affixed to the land and not attached to a building.

Sign, nonconforming. A sign lawfully existing on (November 11, 1974), which does not now conform to the regulations of the Zoning Ordinance.

Sign, off premises. A sign whose subject matter relates to products, accommodations, services or activities not exclusively located on the same premises as that sign. Also referred to as billboards.

Sign, temporary. A sign which, by its inherent nature, can be expected to remain in place for less than two (2) months and whose subject matter relates exclusively to the premises on which it is located or to products, accommodations, services or activities on the premises.

Special Permit. A Special Permit is the permit granted by the City Council, Zoning Board of Appeals or Planning Board acting as the Special Permit Granting Authority as hereinafter provided.

Special Permit Granting Authority. Depending on the kind of Special Permit and as designated in the Zoning Ordinance with authority to issue Special Permits, "Special Permit Granting Authority" shall include the Board of

Appeals, the City Council, and the Planning Board.

Story. The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is four (4) or more feet above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

Story, half. That portion of a building under a sloping roof, the cubic contents of which are never more than one-half of that of the story below. If the cubic contents are greater, it shall be deemed a story.

Street line. The established boundary line between the lot and the street. This is not to be considered as the edge of the traveled portion of the road or as the gutter or curb line of a paved street unless such edge, gutter or curb line is on a street line as defined in this paragraph.

Structure. Anything constructed or erected which requires location on the ground or attachment to something having location on the ground, including but not limited to signs and billboards and tight board and concrete block fences four feet or more in height, but not including other fences.

Tourist Home/Bed and Breakfast. An owner-occupied single-family dwelling which may rent up to a maximum of three (3) rooming units for transient occupancy, not to exceed a total of six (6) renters (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one toilet, one bath/shower and one wash basin, separate from those required for the single-family dwelling), which share a common entrance with the single-family dwelling. The use of that portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a single-family residence and shall not change the character thereof.

Townhouse. A building containing three or more dwelling units in a row in which each dwelling unit has its own front and rear access to the ground, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from another dwelling unit by one or more party walls.

Trailer. Any vehicle which is or can be used for sleeping, living, or working purposes and which is, has been, or can be mounted on wheels.

Transportation service facility or trade depot. An establishment providing transportation services including, but not limited to, the following: air transportation; bus terminals; heliports and helistops; railroad yards and railroad passenger terminals and truck stops, trucking terminals.

Unit parking depth. The distance required to accommodate two rows of parking and a common maneuvering aisle.

Variance. A variance is an authorization by the Board of Appeals granting relief to owners of land or buildings from "substantial hardships" that arise from literal enforcement of the provisions of this Zoning Ordinance.

Warehousing (Wholesale, sale, storage). Establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Terminal facilities for handling freight with or without maintenance facilities.

Water supply drainage basin. An area within which all overland and subsurface water flows to a common body of water associated with a water supply or a potential water supply.

Watershed. A water supply drainage basin.

Wireless Communications. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services [47 U.S.C. Sec. 332 9c) (7) (C) (i)]. Functionally equivalent services are Cellular, Personal Communications Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

Wireless Communications Facility. Facility for the provision of wireless communications services.

Yard. An unoccupied space, open to the sky, on the same lot with the building or structure.

Yard, front. A yard extending across the full width of the lot and lying between the front of the lot and the nearest line of the principal building.

Yard, rear. A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building.

Yard, side. A yard extending along the full depth of the lot and lying between the side lot line of the lot and the nearest line of the principal building.

Section 22-5 Districts: Established; Enumerated

The City is hereby divided into districts of eight (8) types with three (3) overlay districts to be known as:

Rural Residence and Agriculture (RRA)	Business A (BA)	<u>Overlay Districts</u>
Residence A and Agriculture (RAA)	Business B (BB)	Floodplain
Residence B (RB)	Commercial (C)	Health Care
Residence C (RC)	Industrial (I)	Water Supply Protection

Section 22-6 Boundaries

The boundaries of each of the above-referenced zoning districts, except for the Floodplain Overlay District, are shown on the map accompanying this section and on file with the City Clerk entitled "Zoning Map, Leominster, Massachusetts, 2001." The boundaries of the Floodplain Overlay District are described in Article V, Section 22-36 of this Ordinance.

All explanatory matter thereon is hereby made a part of this section.

- 6.1 Where the boundary lines are shown upon such map within the street lines of public and private ways, railroads or utility lines, the center lines of such ways shall be the boundary lines.
- 6.2 Where the boundary lines are shown approximately on the location of property or lot lines and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- 6.3 Boundary lines located outside of such street lines, railroad or utility lines and shown approximately parallel thereto shall be regarded as parallel to such lines, and dimensions shown in figures placed upon such map between such boundary lines and street, railroad, and utility lines are the distances in feet of such boundary lines from such street, railroad or utility lines, such distances being measured at right angles to such street, railroad or utility lines unless otherwise indicated.
- 6.4 In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon such map by the use of identifications as shown on the map or by the scale of the map.
- 6.5 Where the district boundary line follows a stream, lake or other body of water, such boundary line shall be construed to be at the thread of channel of the stream unless otherwise indicated.
- 6.6 Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than thirty feet into the more restricted portion; provided that:
 - 6.6.1 The lot has frontage in the less-restricted district.
 - 6.6.2 Where a lot extends from street to street, the frontage restriction prevails fifty percent of the depth.
- 6.7 Where property has not been specifically included within a district, it shall automatically be classed as lying in the most restricted district which abuts it.

Section 22-7 Enforcement

The Director of Inspections shall be charged with the enforcement of the Zoning Ordinance and shall withhold a permit for the construction, alteration, or moving of any building or structure if the building or structure, as constructed, altered or moved would be in violation of the Zoning Ordinance. No permit or license shall be granted for a new use of a building, structure, or land if such use would be in violation of the Zoning Ordinance.

The superior court shall have jurisdiction to enforce the provisions of the Zoning Act, and any ordinances adopted thereunder, and may restrain by injunction violations thereof.

Section 22-8 Filing of Plans and Specifications

With each application for a permit to build, there shall be filed a plan showing the lot, the area and location of such lot and building thereon. No building hereafter erected, altered or relocated shall be used and no change shall be made of the use of any building or any parcel of land, except for the use of land for agriculture, horticulture, or floriculture, unless an occupancy permit signed by the enforcing officer (Director of Inspections) has been granted to the owner or occupant of such land or building. Such permit shall not be granted unless the proposed use of the land or building and all accessory uses comply in all respects with the Zoning Ordinance, and no use shall be made of such land or building except the use or uses authorized by such occupancy permit.

Section 22-9 Applicability of Ordinance to Existing Buildings and Uses

Any lawful building or structure or lawful use of a building, structure, land or part thereof existing at the time of the adoption of this section shall not be affected by this section to the extent of the use existing at the time of adoption.

Section 22-10 Recorded Lots

- 10.1 Any lot or lots of land described in a deed and officially recorded with the registry of deeds may be used for any permitted use in the district in which the lot or lots are located, provided that:
 - 10.1.1 In the case of a nonconforming lot, the adjoining lot is not vacant and is not in the same ownership.
 - 10.1.2 Lots which do not conform to the requirements of Article III are used with the minimum nonconformance except that no lot shall be less than 5,000 square feet, no lots shall have less than 50 feet of frontage, nor any side yard less than eight feet.
 - 10.1.3 Any lot on which more than one house existed at the time of the adoption of this Ordinance may be divided and sold to separate owners and used with a minimum of nonconformance.
- 10.2 If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to the Planning Board for approval under the subdivision control law; and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance; the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of the first submission of such plan. Provided that such definitive plan or amendments to is finally approved, the above mentioned exemption shall last for a period of eight years from the date of endorsement of the definitive plan.
- 10.3 When, as provided for in Section 2.1 of Leominster's Subdivision Regulations, a "Plan Not Requiring Approval" is submitted to the Planning Board and written notice of such submission is given to the City Clerk, the use of the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of such submission. If such plan is approved, the exemption shall last for a period of three years from the date of endorsement of such plan.
- 10.4 In the event that any lot shown on a plan endorsed by the Planning Board is the subject matter of any appeal or litigation, the exemption provisions of this section shall be extended for a period equal to that from the date of filing of the appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds, to waive the provisions of this section, in which case the Zoning Ordinance then in effect shall apply.

Section 22-11 Lot Frontage

Any building or structure can be erected, altered, enlarged, re-modeled or moved for any lawful purpose in this Ordinance; provided that any lot on which a principal building is hereafter erected or remodeled or moved shall have frontage in an amount as required in Section 22-27 on:

- 11.1 A public way or a way which the City Clerk certified is maintained and used as a public way.
- 11.2 A way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, Chapter 41, sections 81K through 81GG, Massachusetts General Laws.
- 11.3 An unaccepted street or way, but only after obtaining a Special Permit from the Planning Board, when the Planning Board has determined that such street or way has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to serve such land and the buildings to be erected thereon. The Planning Board may require that a method of performance security be filed by the applicant prior to the issuance of a building permit under this paragraph to ensure the proper completion of all required improvements and the construction and installation of the municipal services to serve such land and the buildings to be erected thereon.

Section 22-12 Nonconforming Uses, Structures and Lots

12.1 Nonconformity by Initial Enactment or Amendment

The provisions of this section apply to actions in connection with nonconforming uses, structures, and lots as created by the initial enactment of this Ordinance or by any subsequent amendment thereto.

12.2 Extension and Alteration

Except as hereinafter provided, this Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a Building or Special Permit issued before the first publication of notice of the public hearing on this Ordinance, but shall apply to any change or substantial extension of such use, to a Building or Special Permit issued after the first notice of said public hearing; to any reconstruction, extension or structural change of such structure, and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose except where alteration, reconstruction, extension or structural change to single or two-family residential structures does not increase the nonconforming nature of said structures.

12.3 Change, Extension or Alteration of Pre-existing Nonconforming Structures and Uses

12.3.1 A Pre-existing Nonconforming Structure or Use may be changed, extended or altered:

- 12.3.1.1 As-of-right when said change, extension or alteration conforms in all respects to the present zoning requirements.
- 12.3.1.2 As-of-right when said change or alteration is limited to rebuilding a single or two-family home destroyed by fire or other natural disaster within two years of the disaster.
- 12.3.1.3 As-of-right when said change or alteration is limited to rebuilding any other building not more than fifty percent destroyed by fire or other natural disaster when the change is limited to rebuilding or replacing the structure within the pre-existing foot print and height of the existing structure or within an area and height that conforms to all dimensional requirements and all construction occurs within two years of the disaster.

12.3.1.4 With a Special Permit from the Zoning Board of Appeals that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and/or use when said change, extension or alteration:

12.3.1.4.1 will not extend any closer to any front, side or rear property boundary than the current zoning allows or existing structure already extends and will not create any new violation of other zoning provisions; and

12.3.1.4.2 does not involve a sign (sign standards are in Article XII).

12.3.2 A Conforming Use on a Pre-existing Nonconforming Lot or in a Pre-existing Nonconforming Structure may be changed, extended or altered:

12.3.2.1 As-of-right to a conforming use which meets all the dimensional and density provisions of the current zoning.

12.3.2.2 With a Special Permit from the Zoning Board of Appeals based upon a finding that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing conforming use when said change, extension or alteration is to a conforming use which requires the same or less minimum lot area, minimum lot width and frontage, minimum lot depth, setbacks, and parking than is required for the present use (and lot does not fully conform to the present zoning requirements for the proposed use).

12.3.2.3 With a Variance to a conforming use which requires a larger minimum lot area, minimum lot width or frontage or minimum lot depth that is required for the present use.

12.4 Single Lot Exemption for Single and Two-Family Use

Any increase in area, frontage, width, yard or depth requirements of the Zoning Ordinance shall not apply to a vacant lot for single and two-family residential use, which:

1. has at least 5,000 square feet of area and fifty feet of frontage;
2. is in an area zoned for single or two-family use (a Special Permit must be obtained if one is required);
3. conformed to existing zoning requirements when the lot was legally created, if any;
4. is in separate ownership prior to the City Council vote which made the lot nonconforming, and has maintained its separate identity.

12.5 Abandonment

Any nonconforming use of a conforming structure and lot which has been abandoned for a continuous period of two (2) years or more shall not be used again except for a conforming use. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of sixty (60) or more consecutive days.

12.6 Change, Extension or Alteration of a Pre-Existing Nonconforming Lot

A pre-existing nonconforming lot may only be changed, extended or altered as matter-of-right provided:

12.6.1 Such change, extension or alteration brings the lot into total conformance with the zoning requirements in existence at the time of said change, extension or alteration; or

12.6.2 Such change, extension or alteration only adds to the pre-existing nonconforming lot and does not reduce the area, frontage, width or depth of the lot; or

- 12.6.3 Such change, extension or alteration deducts land from the pre-existing nonconforming lot but in such a manner that such a reduction does not reduce the lot's area, frontage, width, depth, building setbacks, percent of building coverage or percent of open space below that which already exists on the pre-existing nonconforming lot or that which is required by the current Zoning Ordinance, whichever is the lesser.

Section 22-13 Special Permits

- 13.1 The Zoning Ordinance and the Table of Uses (Section 22-26) provide for specific types of uses which shall be permitted only in specified districts upon the issuance of a Special Permit. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the Ordinance, and shall be subject to general and specific provisions set forth herein. Such permits may also impose conditions, safeguards and limitations on time or use.
- 13.2 The Special Permit Granting Authority may grant a Special Permit authorized by this Ordinance if said Board finds, when applicable, that:
- 13.2.1 The proposal is suitably located in the neighborhood in which it is proposed and/or to the entire City, as deemed appropriate by the SPGA;
- 13.2.2 The proposal is compatible with existing uses and other uses permitted by right in the same district;
- 13.2.3 The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibration, lights, or visually offensive structures and accessories;
- 13.2.4 The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians;
- 13.2.5 Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
- 13.2.6 The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
- 13.2.7 The proposal ensures that it is in conformance with the sign regulations of the Ordinance (see Article XII);
- 13.2.8 The proposal provides convenient and safe vehicular and pedestrian movement within the site in relation to adjacent streets, property or improvements;
- 13.2.9 The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
- 13.2.10 The proposal provides adequate methods of disposal and/or storage for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
- 13.2.11 The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; and
- 13.2.12 The proposal ensures protection of water quality in both public and private supplies.
- 13.3 Special Permits shall only be issued following public hearings held within sixty-five days after filing of an application with the Special Permit Granting Authority. Depending on the type, Special Permits shall be issued, as designated elsewhere in this Ordinance, from among the City Council, the Board of Appeals, or the Planning Board. Each Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such permits; and shall file a copy of said rules in the Office of the City Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and

the procedure for a submission and approval of Special Permits. Special Permit Granting Authorities shall take final action within ninety days following a public hearing for which notice has been given by publication and posting, and by mail to all parties in interest. Failure by a Special Permit Granting Authority to take final action upon an application within said ninety days of the public hearing shall be deemed to be a grant of the permit applied for. Special Permits issued by a Special Permit Granting Authority shall require a two-thirds vote of authorities with more than five members and a vote of at least four members of five-member authorities.

- 13.4 Special Permits shall lapse two years after issuance if a substantial use thereof has not commenced except for good cause, or, in the case of a permit for construction, if construction has not begun within two years except for good cause.

Section 22-14 Adoption and Amendment

- 14.1 The Zoning Ordinance may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereafter provided. Adoption or change of the Zoning Ordinance may be initiated by the submission to the City Council of a proposed zoning ordinance or amendment by the City Council, by the Board of Appeals, by an individual owning land to be affected by such change, by ten registered voters, by the Planning Board, by the Regional Planning Agency, or by other methods provided for by municipal charter. The City Council shall within fourteen days of receipt of such zoning ordinance submit such to the Planning Board for review.
- 14.2 No Zoning Ordinance or amendment thereto shall be adopted until after the Planning Board and the City Council have held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed ordinance is submitted to the Planning Board by the City Council. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the City in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid, to the Department of Communities and Development, the Regional Planning Agency, and to the planning boards of all abutting cities and towns. A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under this section shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the City Clerk no later than January first of each year, and pays a five dollar fee to cover notification cost. In cases involving boundary or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the City Clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this section shall invalidate any provisions of the Zoning Ordinance unless such defect is found to be misleading.
- 14.3 No vote to adopt any such proposed ordinance shall be taken until a report with recommendations by the Planning Board has been submitted to the City Council, or twenty-one days after the public hearing has elapsed without submission of the report of recommendations. After such notice, hearing, and report, or after twenty-one days have lapsed after such hearing without submission of such report; the City Council may adopt, reject, or amend and adopt any such proposed ordinance or bylaw. If the City Council fails to vote to adopt any proposed ordinance within ninety days after the public hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.
- 14.4 No Zoning Ordinance shall be adopted or changed except by a two-thirds vote of all the members of the City Council. If there is filed with the City Clerk, prior to final action by the City Council a written protest against such change stating the reasons, and duly signed by owners of twenty percent or more of the area of the land proposed to be included in such change, or if the area of land immediately adjacent extending three hundred feet therefrom, no such change of any ordinance shall be adopted except by a three-fourths vote of all members.

- 14.5 No proposed Zoning Ordinance which has been unfavorably acted upon by the City Council shall be considered by the City Council within two years after the date of such unfavorable action unless the adoption of such changes is recommended in the final report of the Planning Board.
- 14.6 The effective date of the adoption or amendment of any ordinance shall be the date on which such adoption or amendment was voted upon by the City Council.
- 14.7 After adoption of the Zoning Ordinance or amendments by the City Council, a copy of the latest effective zoning ordinance shall be sent by the City to the Department of Community Affairs.
- 14.8 No claim of invalidity of the Zoning Ordinance arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county or municipal official shall refuse, deny, or revoke any permit, approval or certification because of any such claim of invalidity unless within one hundred and twenty days after adoption legal action is commenced and notice specifying the court, parties, invalidity claimed, and date of filing if filed together with a copy of the petition with the City Clerk.

Section 22-15 Penalty

Violations of the Zoning Ordinance shall be punishable by a fine of not more than \$300 per violation ; provided that each day such violation continues shall constitute a separate offense.

ARTICLE II USE REGULATIONS

Section 22-16 Generally Permitted Uses

For the purposes of this section, the following uses of buildings, structures and land are permitted in all portions of the City subject to the provisions described below and in Section 22-26 of the Table of Uses.

- 16.1 Any building or structure which conforms to the provisions of this section and with the Building Code of the City.
- 16.2 Customary home occupations and home offices, provided that:
- 16.2.1 The proprietor resides in the dwelling.
- 16.2.2 The business use is secondary to the primary use of the property as a residence.
- 16.2.3 No more than two (2) nonresidents are employed.
- 16.2.4 No more than twenty-five percent of the floor area of the residence (excluding the floor area of any accessory building or garage, whether attached or not) is used for the purpose of the home occupation or professional use.
- 16.2.5 The use shall show no external evidence of the occupation other than an identification sign not larger than four (4) square feet. Any outward manifestation of the home occupation (such as traffic generation, noise, public service and utility demands) shall not be unlike those of dwelling units in the neighborhood in which the dwelling is located.
- 16.2.6 The use shall provide on-site parking spaces for the number resulting from the following formula:
- | | | | | |
|--|---|---------------------------------------|---|--------------------------|
| Number of vehicles
registered at the property | + | Number of
nonresident
employees | + | Two additional
spaces |
|--|---|---------------------------------------|---|--------------------------|
- 16.2.7 No operation of the use shall occur between 10:00 p.m. and 7:00 a.m.
- 16.3 Governmental buildings, parks, playgrounds, parking facilities and housing for the elderly under the jurisdiction of any governmental agency.
- 16.4 Sand, gravel, or loam removal subject to the provisions of City Ordinances regulating such removal.
- 16.5 Tight board, concrete block or any solid material fences four feet or more in height, provided that such fences shall not be erected beyond the front building line established for the building of houses.
- 16.6 A use which is incidental or accessory to the foregoing and which is the use of an owner or occupant, provided that:
- 16.6.1 For residences, such uses are limited to:
- 16.6.1.1 Private guest houses, tool sheds, playhouses, tennis courts, boat houses or other buildings or structures for domestic use, storage of boats and boat trailers and private garages for motor vehicles, but not including more than one commercial vehicle other than farm vehicles or more than one vehicle owned by a nonresident of the premises.
- 16.6.1.2 No more than four lodgers or boarders except in Residence B and C Districts.

- 16.6.1.3 The raising or keeping of flocks of poultry of ten (10) or less for use only by residents of the premises is permitted by right in all districts (see Section 22-26).
- 16.6.1.4 The raising or keeping of flocks of poultry of between 10 and 50, or of saddle horses, private kennels, livestock or other farm animals for use only by residents of the premises is subject to the provisions of Section 22-26, Table of Uses.
- 16.6.1.5 In-law Apartments authorized in accordance with the Special Permit requirements in Article XV of this Ordinance. *(Amended September 12, 2005)*
- 16.6.2 For farms, such accessory uses are limited to:
- 16.6.2.1 The uses of subsections 16.6.1.2, 16.6.1.3, 16.6.1.4 of this section.
- 16.6.2.2 Garages for farm vehicles and equipment, barns, greenhouses, silos, storage or other buildings for temporary or permanent farm use.
- 16.6.2.3 Stands for the sale of produce mainly raised on the premises only.
- 16.7 Trailers and mobile homes being used situated outside of mobile home parks and trailer parks shall be permitted in all portions of the City for periods of from more than one year but not to exceed eighteen months; provided that a permit in writing has been granted by the City Council and provided further that the City Council may renew such a permit for one or more additional periods of six months or less. For periods of time seven days or less, such permits shall be granted by the Chief of Police and shall not be renewable. *(Amended January 27, 2003)*
- 16.8 Accessory uses for activities which are necessary in connection with scientific research or scientific development or related production upon issuance of a Special Permit from the Planning Board, provided that such use does not substantially derogate from the public good.
- 16.9 Use of Undeveloped (Vacant) Lots
- 16.9.1 If one undeveloped lot is in a zoning district in which a desired, but non-permitted residential use is sought, and the lot is bordered by other lots which are predominately non-conforming residential uses, by Special Permit of the City Council a similar nonconforming residential use of that lot may be permitted, consistent with the zoning requirements for residential structures in the closest neighboring residential zoning district.
(Amended March 27, 2006)
- 16.9.2 In the case of an Industrially-zoned, undeveloped lot of 1.5 acres or less which as in existence prior to July 1, 2005, the City Council may, by Special Permit, allow use of that lot for any business use listed in the Section 22-26 Table of Uses as permitted by right or by Special Permit in the Business A or Business B Districts, if the City Council determines that there is no present, reasonable industrial use for the lot, and that the proposed use of the lot is not contrary to the general welfare, safety, health and morals of the City. The lot and structures thereon must comply with all dimensional requirements for the Business A District as set forth in Article III Dimensional Regulations. Any Special Permit granted hereunder is subject to Site Plan approval by the Planning Board.
(Amended March 27, 2006)
- 16.10 In an Industrial or Commercial district the City Council may grant a Special Permit allowing the use of an existing building for a use not otherwise permitted in the district in which the building is located. The proposed use must be one of the specific uses itemized in the Table of Uses for Business Uses contained in Article II Section 22-26 as being permitted as of right or as being allowed subject to a Special Permit requirement in a Residence, Business, Commercial or Industrial District, exclusive of Adult Entertainment uses. *(Amended July 25, 2005)*
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- 16.10.1 The City Council shall find that the proposed use will not be substantially more detrimental to the neighborhood than the prior use and such permits may also impose conditions, safeguards and limitations on size, time, use or such other items necessary to protect the character and integrity of the neighborhood. *(Amended July 25, 2005)*
- 16.10.2 Any Special Permit granted hereunder shall be exclusive to that particular use. All other proposed uses or expansions of the existing approved use must apply for a Special Permit. Condemned buildings and/or structurally unsound building may be razed or reconstructed provided all other conditions contained herein are satisfied and the size of the proposed building does not materially exceed the existing building. In granting this Special Permit, the City Council must find that not reasonable industrial alternative is available to the applicant. *(Amended July 25, 2005)*

Section 22-17 Rural Residence and Agriculture Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as Rural Residence and Agriculture Districts, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Rural Residence and Agriculture Districts:

- 17.1 All permitted uses must comply with the appropriate provisions of Section 22-16 and Article III.
- 17.1.1 Farms and poultry farms, market gardens, orchards, nurseries, greenhouses and stands for the sale of produce mainly raised on the premises. Cultivated uses are allowed up to all property lines and street lines. Customer parking is allowed up to the street line. All other uses permitted in this subsection shall be not less than twenty-five feet from any street line, except that poultry farms shall consist of not less than five acres, and all buildings used for poultry farming shall be located not less than one hundred feet from all property and street lines.
- 17.1.2 For forests, wood lots, portable saw mills and machinery, there shall be no storage within fifty feet of any property line and one hundred feet of any street line.
- 17.2 Permitted uses and uses issued under a Special Permit must not be objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration, provided further that the use is not contrary to the general welfare, safety and health and morals of the City.

Section 22-18 Residence A and Agriculture Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as Residence A and Agriculture Districts, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence A and Agriculture Districts:

- 18.1 All permitted uses must comply with the appropriate provisions of Section 22-16 and Article III.
- 18.2 The following special conditions apply to permitted uses:
- 18.2.1 For Farms and poultry farms and pig farms, market gardens, orchards, nurseries, greenhouses and stands for the sale of produce mainly raised on the premises. Cultivated uses are allowed up to all property lines and street lines. Customer parking is allowed up to the street line. All other uses permitted in this subsection shall be not less than twenty-five feet from any street line, except that poultry and pig farms shall consist of not less than five acres, and all buildings used for poultry or pig farming shall be located not less than one hundred feet from all property and street lines.

18.3 Uses permitted upon issuance of a Special Permit by the Board of Appeals must meet the following additional conditions:

18.3.1 They are not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration and that the use is not contrary to the general welfare, safety and health and morals of the City.

18.3.2 The principal buildings are at least one hundred feet from all residential buildings.

Section 22-19 Residence B Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Residence B District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence B District:

19.1 All permitted uses must comply with the appropriate provisions of Section 22-16 and Article III.

19.2 The following conditions must be met for permitted uses:

19.2.1 New two-family attached residence buildings provided that:

19.2.1.1 The lot size shall be at least 12,500 square feet.

19.2.1.2 The areas used for buildings, parking, driveways and other permanent impervious surfaces shall not exceed fifty percent of the total lot area.

19.2.1.3 There shall be at least three (3) off-street parking spaces per building.

19.2.2 When converting a single family residence building to accommodate two or more dwelling units:

19.2.2.1 The exterior single-family character of the building shall not be altered other than by a second exit.

19.2.2.2 There shall be at least six hundred square feet of floor area for each dwelling unit and each dwelling unit shall have separate toilet and cooking facilities.

19.2.3 Boarding or lodging houses, tourist homes and nursing or convalescent home shall have no external evidence except an announcement sign in connection with any of the permitted uses; provided further that such signs are located on the premises with the use which they announce and do not exceed six square feet in area.

19.2.4 The conversion of any building into a private club not conducted for profit, or into a funeral home or undertaking establishment, provided that if a single family dwelling unit is converted into such use, then the exterior one-family character of the building shall not be altered.

19.2.5 Apartments permitted by right with Site Plan Approval shall meet all the following conditions:

19.2.5.1 The lot shall have an area not less than twenty thousand square feet and frontage of not less than one hundred and twenty feet.

19.2.5.2 The density shall not exceed five (5) units per gross acre.

19.2.5.3 The total number of units in multifamily structures whether on one or a number of abutting lots shall not exceed sixty.

- 19.2.5.4 The area used for building, parking, driveways and other impervious surfaces shall not exceed fifty percent of the total lot area.
- 19.2.5.5 The number of off-street parking spaces shall not be less than the total of one and one-half spaces per dwelling unit.
- 19.2.5.6 A screening and buffer strip shall be required when the development abuts a single family dwelling lot or a more restrictive zoning district. The strip shall be at least thirty feet in width, shall contain a screen of plantings in the center of the strip not less than three feet in width or six feet in height at the time of occupancy, and shall consist of individual shrubs or trees, of which at least fifty percent shall be evergreen, planted not more than three feet on the center. The strip shall thereafter be maintained by the owner so as to maintain a dense screen year round. A solid fence or wall, not to exceed eight feet or less than four feet in height, complemented by suitable plantings, may be substituted for such center screen.
- 19.2.5.7 Wetland areas are excluded from the calculation of total units per gross acre. A Site Plan must indicate wetlands boundaries and area for City confirmation. The Site Plan must include density calculations.
- 19.2.6 Specific requirements for Apartments. Before the City Council approves an application for a Special Permit, and before the Planning Board reports that all requirements have been met, each body shall find all of the following requirements to be fulfilled:
- 19.2.6.1 The density shall not exceed eight (8) units per gross acre.
- 19.2.6.2 The lot area shall not be less than ten thousand square feet and the lot frontage shall not be less than one hundred feet.
- 19.2.6.3 The area used for building, parking, driveways and other permanent impervious surfaces shall not exceed thirty percent of the total lot area.
- 19.2.6.4 The number of off-street parking spaces shall not be less than the total of one and one-half spaces per dwelling unit.
- 19.2.6.5 Screening and buffer strips shall be required when the development abuts a single family dwelling lot or a more restrictive zoning district. The strip shall be at least fifty feet in width, shall contain a screen of plantings in the center of the strip not less than three feet in width or six feet in height at the time of occupancy, and shall consist of individual shrubs or trees, of which at least fifty percent shall be evergreen, not more than three feet on the center. The strip shall thereafter be maintained by the owner so as to maintain a dense screen year round. A solid fence or wall, not to exceed eight feet or less than four feet in height, complemented by suitable plantings, may be substituted for such center screen.
- 19.2.6.6 The City Council may in appropriate cases approve an application for Special Permit subject to appropriate safeguards and conditions in addition to those listed above.

Section 22-20 Residence C Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Residence C District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence C District:

- 20.1 All permitted uses must comply with appropriate provisions of Section 22-16 and Article III.
- 20.2 The following conditions must be met for permitted uses:

20.2.1 Dwellings for more than one family, provided that:

20.2.1.1 Site Plan Approval is given by the Planning Board.

20.2.1.2 The lot size shall be at least eight thousand square feet plus an additional five thousand (5,000) square feet for each dwelling unit. Density shall not exceed eight (8) units per acre.

20.2.1.3 The areas used for buildings, parking, driveways and other permanent impervious surfaces shall not exceed fifty percent of the total lot area.

20.2.1.4 The number of off-street parking spaces shall not be less than one and one-half spaces per dwelling unit.

20.2.1.5 Wetlands areas are excluded from the calculation of total units per gross acre. A Site Plan must indicate wetlands boundaries and area for City confirmation. The Site Plan must include density calculations.

Section 22-21 Business A Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Business A District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Business A District:

21.1 All permitted uses shall be:

21.1.1 Subject to the appropriate provisions of Section 22-16 and Article III.

21.1.2 Conducted in enclosed buildings or structures except as provided in subsection 21.3 below and except for required off-street parking spaces.

21.2 The following conditions must be met for permitted uses:

21.2.1 Outdoor advertising as regulated by General Laws, Chapter 93, Sections 29-33 inclusive and as permitted thereunder. The provisions of Article XII subsections 81.3.1, 81.3.2, and 81.3.3 shall not apply.

21.2.2 Residential uses must conform with the most restrictive residential zone abutting that particular Business A district.

21.3 The following uses permitted by Special Permit shall meet the following conditions:

21.3.1 Automotive service stations for the dispensing of fuel, washing and lubricating of vehicles and such minor repairs as changing tires or cleaning plugs shall meet the following requirements:

21.3.1.1 The property used for this purpose is not within two hundred feet measured along the street frontage of a place of assembly or residential district unless the property so used is separated by a street from the place of assembly or residential district.

21.3.1.2 Exterior storage of automobiles on the premises is limited to the vehicles of employees and customers.

21.3.2 Bus depots, taxi stands and other passenger stations shall meet the following requirements:

21.3.2.1 The provisions of subsection 21.3.1.1.

- 21.3.2.2 Any retail uses conducted within the structures are in compliance with the provisions of this subsection.

Section 22-22 Business B Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Business B District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Business B District:

22.1 All permitted uses shall be:

22.1.1 Subject to the appropriate provisions of Section 22-16 and Article III.

22.1.2 Conducted in enclosed buildings or structures, except for required off-street parking spaces and for parking lots.

22.2 The following uses of land, buildings and structures are permitted with the following conditions:

22.2.1 All uses permitted by right in Business A Districts. Residential uses in the Business B District shall not be permitted on the ground or street level, but are permitted on upper levels.

22.2.2 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing or printing establishments, when approved in writing by the Director of Inspections, provided that:

22.2.2.1 The ground floor premises facing upon and visible from the street shall be used only for entrances, sales, office or displays.

22.2.2.2 The use is not objectionable to residents of adjacent property because of objectionable cinders, dust, fumes, noise, odors, refuse matter, smoke, vapor or vibration resulting from assembling, remodeling, repairing, altering, finishing, refinishing or marking the merchandise or other aspects of the business on the premises.

22.2.3 Outdoor display of merchandise shall meet the following conditions:

22.2.3.1 It is incidental to one of the uses permitted in Business B Districts.

22.2.3.2 It is entirely on the property of the displaying establishment.

22.2.3.3 It conforms to all safety regulations required by the Chief of the Fire Department.

22.2.4 Business or trade schools, music or dancing schools and television or radio broadcasting studios or stations.

22.2.5 Hotels and restaurants including the right to dispense alcoholic beverages.

22.2.6 Recreation or conservation use under management of any governmental agency or authority and/or non-profit recreation or conservation organizations.

22.2.7 Business and professional offices and banks.

22.2.8 Department stores, automotive supply stores, furniture stores, household furnishings stores, sporting goods stores, and hardware stores.

22.3 The following uses are permitted by a Special Permit of the City Council:

- 22.3.1 Apartments are subject to the same procedural and general requirements as set forth in Section 22-19.
- 22.4 Uses permitted by right or by Special Permit from the Board of Appeals, shall not be objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration, provided further that the use is not contrary to the general welfare, safety and health and morals of the City.
- 22.5 The Board of Appeals may grant a Special Permit for any other use determined by the Board of Appeals to be similar in character to the uses listed above and similar in effect on adjacent property; provided that it is not specifically permitted in a less restricted district. Specifically included as uses requiring Board of Appeals Special Permits are:
 - 22.5.1 Places of amusement, assembly and public, private, commercial recreational activities.
 - 22.5.2 Automobile parking garages or lots.
- 22.6 Duplex houses.
- 22.7 The following use is permitted by a Special Permit from the Planning Board:
 - 22.7.1 Light manufacturing using portable electrical machinery, provided that it is above the ground floor of a business building.

Section 22-23 Commercial Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Commercial District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Commercial District:

In all portions of the City indicated on the Zoning Map as Commercial Districts:

- 23.1 All permitted uses shall be subject to the appropriate provisions of Section 22-16 and Article III.
- 23.2 The following uses of land, buildings and structures are permitted with the following conditions:
 - 23.2.1 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing or printing establishments, when approved in writing by the Director of Inspections, provided that:
 - 23.2.1.1 The ground floor premises facing upon and visible from the street shall be used only for entrances, sales, offices or displays.
 - 23.2.1.2 The use is not objectionable to residents of adjacent property because of objectionable cinders, dust, fumes, noise, odors, refuse matter, smoke, vapor or vibration resulting from assembling, remodeling, repairing, altering, finishing, refinishing or marking the merchandise or other aspects of the business on the premises.
 - 23.2.2 Light manufacturing using portable electrical machinery shall be located above the ground floor of a business building.
 - 23.2.3 Mobile home parks and trailer parks shall receive approval in writing from the City Council.
 - 23.2.4 Outdoor storage shall meet the following conditions:
 - 23.2.4.1 It is incidental to one of the uses permitted in Commercial Districts.

- 23.2.4.2 It is adequately fenced and screened from the street and adjacent properties.
- 23.2.5 The manufacturing of products is permitted provided that the major portion of products are to be sold at retail by the manufacturer to the consumer upon the premises where manufactured.
- 23.2.6 Restaurants with dining room and banquet facilities including the right to dispense alcoholic beverages.
- 23.2.7 Personal and Consumer Service Establishments conducting business directly with the consumer, such as dry cleaning or laundry pick-up station, the shop of a beautician, barber or shoemaker or the shop for custom work by a dressmaker, milliner or tailor.
- 23.2.8 Business or trade schools, music or dancing schools and television or radio broadcasting studios or stations.
- 23.2.9 Motels and restaurants including the right to dispense alcoholic beverages.
- 23.2.10 Places of amusement, assembly and public, private, commercial recreational activities.
- 23.2.11 Automobile parking garages or lots.
- 23.2.12 Motels and hotels.
- 23.2.13 Funeral homes, funeral parlors or mortuaries.
- 23.2.14 Wholesale offices or showrooms.
- 23.2.15 Salesrooms and places for the repair and service of boats, trucks, cars, farm equipment and building supplies. All new automotive dealers shall obtain a Special Permit from the Zoning Board of Appeals.
- 23.2.16 Restaurants, including those offering drive-in or window service. Window service and drive through service shall require Site Plan Review approval from the Planning Board.
- 23.2.17 Commercial greenhouses, kennels or veterinary hospitals.
- 23.2.18 Wholesale sale, storage and warehousing shall be permitted, including the wholesale sale or storage of food, fodder, fuel and building materials.
- 23.2.19 Storage, preparation and sale, at either wholesale or retail, of food and drink of all varieties.
- 23.2.20 Any type of drinking and eating place, including those dispensing alcoholic beverages.
- 23.2.21 Recreation or conservation use under management of any governmental agency or authority and/or non-profit recreation or conservation organizations.
- 23.2.22 Continuing Care Retirement Community, Assisted Living Facility
- 23.2.23 Nursing, Convalescence Home
- 23.2.24 Business and Professional Offices or Buildings.
- 23.3 Upon issuance of a Special Permit by the Board of Appeals, any other use determined by the Board of Appeals to be similar in character to the uses above and similar in effect on adjacent property shall be permitted, provided that the use is not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration; provided further that the use is not contrary to the general welfare, safety, health and morals of the City.

- 23.4 *In granting Site Plan Approval for any project in a Commercial District that includes at least 10,000 square feet of retail space, the Planning Board may waive any of the requirements of Articles VIII or XI regarding the width or number of driveways, the height of light standards, the extent of paving or the landscaping of parking areas, and substitute therefore the features shown on the approved Site Plan. (Amended January 27, 2003)*

Section 22-24 Industrial Districts

Except as provided in Section 22-16, in all portions of the City designated on the Zoning Map as the Industrial District, no land or buildings shall be used for any use not set forth in Section 22-26 Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Industrial District:

In all portions of the City indicated on the Zoning Map as Industrial Districts:

- 24.1 All permitted uses shall be subject to the appropriate provisions of Section 22-16 and Article III.
- 24.2 The following uses of land, buildings and structures are permitted with the following conditions:
- 24.2.1 Warehousing shall be used in conjunction with other existing uses located within the City permitted in this Section. Warehousing not so permitted shall be allowed by Special Permit from the City Council.
- 24.2.2 Research, development and production utilizing recombinant DNA technology, provided that the uses fully comply with the provisions of Chapter 19A of the Leominster Municipal Code.
- 24.2.3 Business and Professional Offices and Buildings.
- 24.2.4 Hotels, provided any such structure shall be located within a common development or a Mixed Use Development Project consisting of uses permitted in this section containing at least 20 acres.
- 24.2.5 *Mixed Use Development Project: A Mixed Use Development Project shall be planned, developed, owned or managed as a cohesive unit. A site on which a Mixed Use Development Project is undertaken may be made up of parcels in separate ownership, but shall be considered as a single lot for the purposes of all use, dimensional, open space, landscaping and design requirements of this Ordinance, including, without limitation, yards, setbacks, buffers, the number and design of parking spaces and areas, number of loading bays, location or design of driveways or interior drives, and location and quantity of open space, provided that such site is subject to a Master Plan as provided in this Section 24.2.5. Any setback, yard, landscaping or buffer requirements otherwise applicable at the perimeter of a lot shall, in the Mixed Use Development Project, apply only at the perimeter of the site of the Mixed Use Development Project. These Projects shall be permitted in Industrial Districts with either: (Amended January 27, 2003)*
- 24.2.5.1 Site Plan Approval from the Planning Board shall be required for any Mixed Use Development Project proposed for a site containing twenty (20) acres or more and in which not more than one-third of the total land area of the development will be devoted to retail stores. Site Plan Approval and a Special Permit from the Planning Board shall be required for any Mixed Use Development Project proposed for a site containing twenty (20) acres or more and in which more than one-third of the total land area in the development will be devoted to retail stores. *(Amended January 27, 2003)*
- 24.2.5.1.1 Site Plan Approval applications for Mixed Use Developments Projects shall include a Master Plan and Development Schedule under this Subsection 24.2.5.1. The Master Plan shall show the overall development of the site including the property lines, the footprint and dimension of all proposed buildings, the parking areas for all uses and a legend with percentage of all uses proposed for the Mixed Use Development Project. The Development Schedule shall indicate the proposed rate of development for the Mixed Use Development Project. The Development Schedule and Master Plan

shall be subject to Planning Board review and approval. The approved Master Plan and Development Schedule shall be recorded by the applicant in the Registry of Deeds, and no building permit may be issued for any Mixed Use Development Project approved under this subsection until proof of such recording has been submitted to the Director of Inspections. **(Amended January 27, 2003)**

24.2.5.2 *A Special Permit from the City Council and Site Plan Approval from the Planning Board for Mixed Use Development Project on a site that is less than twenty (20) acres. For Mixed Use Development Projects on sites that are less than twenty (20) acres, the City Council shall have the authority to limit the land area percentage for any one single use. In granting Site Plan Approval as provided in Section 24.2.5 hereof, the Planning Board may waive any requirements of Articles VIII or XI regarding the width or number of driveways, the height of light standards, the extent of paving or the landscaping of parking areas, and substitute therefore the features shown on the Site Plan. (Amended January 27, 2003)*

24.2.6 Manufacturing uses shall be permitted, except that the following uses are specifically **prohibited**:

- 24.2.6.1 Blast furnaces.
- 24.2.6.2 Cement, gypsum, lime or plaster of paris manufacture.
- 24.2.6.3 Coke manufacture.
- 24.2.6.4 Creosote manufacture.
- 24.2.6.5 Distillation of bones, coal or wood.
- 24.2.6.6 Explosives or fireworks manufacture.
- 24.2.6.7 Fat, grease, lard or tallow rendering.
- 24.2.6.8 Gas (fuel or illuminating) manufacture in excess of one thousand cubic feet per day or storage in excess of ten thousand cubic feet, except in a municipal or public service plant.
- 24.2.6.9 Gelatin, glue or size manufacture from fish, animal refuse or offal.
- 24.2.6.10 Hair manufacture.
- 24.2.6.11 Hot rolling mill for steel manufacture only.
- 24.2.6.12 Hydrochloric, nitric, picric, sulfuric or sulphurous acid manufacture
- 24.2.6.13 Incineration, reduction or dumping of dead animals, garbage, offal or refuse except by the City or its agents or when accumulated and consumed on the same premises without the emission of odor.
- 24.2.6.14 Asphalt (otherwise known as felt-base linoleum).
- 24.2.6.15 Match manufacture.
- 24.2.6.16 Petroleum production or refining.
- 24.2.6.17 Slaughtering, except as permitted by the Board of Health, or stock yards, except as appurtenant thereto.
- 24.2.6.18 Tanning, curing or storage of raw hides or skins.
- 24.2.6.19 Turpentine manufacture.

24.2.6.20 Storage-collection, treatment, burial, incineration, or disposal of radioactive wastes.

24.2.6.21 Manufacture of pesticides

Section 22-25 Adult Entertainment Uses

25.1 **AUTHORITY:** This section is enacted pursuant to M.G.L. Chapter 40A and pursuant to the City's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling City interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

25.2 **PURPOSE:** It is the purpose of this section to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of municipalities, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in municipalities. All of said secondary impacts are adverse to the health, safety and general welfare of the City of Leominster and its inhabitants. The provisions of this section have neither the purpose nor the intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

25.3 **ADULT ENTERTAINMENT USES BY SPECIAL PERMIT:** The operation of any Adult Entertainment Use, as defined herein, shall require a Special Permit from the Leominster City Council. The applicant for a Special Permit is subject to the requirements of Section 22-13, Special Permits. Special Permits for Adult Entertainment Uses may be authorized in Commercial Districts only.

25.4 No Adult Entertainment Use Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, Sec. 63 or M.G.L. c.272, Sec. 28.

25.5 The operation of an Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore, and Adult Dance Club will not be situated within 1,000 feet of any establishment that serves or sells alcoholic beverages that are consumed on the premises or taken out.

25.6 An Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club will not be located within 1,000 feet of any other Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club.

25.7 In granting, a Special Permit, the City Council shall provide that an Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club will not be located within 1,000 feet of the following:

25.7.1 A residential use or zoning district

25.7.2 A structure or parcel used for educational or religious purposes

- 25.7.3 A structure or parcel owned, operated or maintained by the Federal Government, the Commonwealth or the City for use by, or with activities open to, the general public, such as a library, park, playground or recreational area
- 25.7.4 A structure or parcel used for a childcare facility
- 25.7.5 A structure or parcel used for a hospital or medical clinic
- 25.7.6 A structure or parcel used for a senior center, nursing home or assisted living facility
- 25.7.7 A bus stop
- 25.7.8 A cemetery
- 25.7.9 An historic district or site
- 25.8 No Adult Entertainment Use shall be allowed to display for advertisement or other purposes any sign, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. c.272, Sec. 1. No Adult Entertainment Use shall have a freestanding accessory sign.

Section 22-26 Table of Uses

The following Table of Uses summarizes the principal and accessory use regulations of this Ordinance. It is not inclusive for all regulations and must therefore be used in conjunction with any and all other appropriate sections of this Ordinance.

The following abbreviations are used in the Table to designate where a use is allowed by right, prohibited, or requires a permit:

Y	Yes, allowed by right	SPBA	Special Permit from Board of Appeals required
N	No, not allowed	SPPB	Special Permit from Planning Board required
SPCC	Special Permit from City Council required	SPA	Site Plan Approval required through Planning Board

(The following notes are not part of the Ordinance. They are intended only to assist the reader.)

A recommended approach to using this Table is as follows:

- (1) Identify appropriate use in Table.
- (2) Identify appropriate district in Table based on review of zoning map.
- (3) Note whether use is allowed (Y), prohibited (N), or requires some form of review.
- (4) Note the sections referenced at right side of Table.
- (5) Read **additional** regulations pertaining to that district in Article II, Sections 22-16 to 22-26 and any other sections referenced in the Table (i.e., Special Permit Criteria, Section 22-13).

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>GENERAL USES</u>									
Amusement areas, including golf course, stables, country clubs, beaches, and amusement areas for separate and participation sports of all kinds	SPPB	SPPB	SPPB	N	N	SPPB	SPPB	N	22-13 17.2
Cemeteries	SPBA	N	N	N	N	N	N	N	22-13 17.2
Commercial greenhouses	Y	Y	SPBA	SPBA	SPBA	SPBA	Y	N	22-13
Day camps and other organized camps	SPBA	N	N	N	N	N	N	N	22-13
Forest, wood lots, portable sawmills and machinery	Y	SPBA SPA	N	N	N	N	N	SPBA SPA	22-13 17.2 18.3
Horticulture, floriculture on less than five acres	Y	Y	Y	Y	Y	Y	Y	Y	16.6 17.2
Livestock agriculture on less than five acres	Y	SPBA	SPBA	SPBA	SPBA	SPBA	SPBA	SPBA	16.6
Livestock, agriculture, horticulture, floriculture on five acres	Y	Y	Y	Y	Y	Y	Y	Y	17.2
Piggeries on five acres or less	N	N	N	N	N	N	N	N	
Recreation or conservation use under management and control of any governmental agency or authority or non-profit recreation or conservation organization	Y	Y	Y	Y	Y	Y	Y	Y	17.2
Sand, gravel or loam removal									■ See Subsection 16.4

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>INSTITUTIONAL USES</u>									
Airports	SPBA	N	N	N	N	N	N	N	22-13 17.2
Educational purposes on land owned or leased by the Commonwealth or any of its agencies or by a religious sect or denomination, or by a nonprofit educational corporation.	Y	Y	Y	Y	Y	Y	Y	Y	
Government buildings, parks, playgrounds, parking facilities, and housing for the elderly	Y	Y	Y	Y	Y	Y	Y	Y	16.3
Hospitals, sanitariums and charitable and philanthropic buildings	Y	SPBA	Y	Y	N	N	Y	N	17.2 18.3
Private clubs not conducted for profit									21.2.2
• Converted from a single family residence	N	N	Y	Y	N	N	Y	N	20.2
• Not converted from a single family residence	N	N	Y	Y	N	N	Y	N	
Public and private libraries and museums	Y	Y	Y	Y	N	N	Y	N	17.2
Public utility buildings	Y	SPBA	Y	Y	Y	Y	Y	Y	22-13 17.2 18.3
Religious organizations, including churches and parish houses	Y	Y	Y	Y	Y	Y	Y	Y	17.2

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>RESIDENTIAL USES</u>									
Apartments	N	N	SPA or SPA/ SPCC	SPA	*	SPA** or SPA/ SPCC	N	N	21.2.2
Boarding or lodging houses	N	N	Y	Y	Y	*	N	N	21.2.2
Continuing Care Retirement Community	N	SPPB	SPPB	SPPB	SPPB	SPPB	SPA	N	
Conversion of single family residences to five or more dwelling units	N	N	Y	Y	*	SPA	N	N	21.2.2
Conversion of single family residences to three or four dwelling units	N	N	Y	Y	*	SPA	N	N	22.2.2
Conversion of single family residences to two dwelling units	N	N	Y	Y	*	SPBA	N	N	21.2.2
Detached one family residence buildings	Y	Y	Y	Y	*	N	N	N	21.2.2
Duplex houses	N	SPBA	Y	Y	*	SPBA**	N	N	20.2
Mobile homes and trailer parks	N	N	N	N	*	SPA	SPCC/ SPA	N	
Nursing or convalescent homes	N	N	Y	Y	*	Y	Y	N	21.2.2
Temporary mobile or trailer homes	SPCC	SPCC	SPCC	SPCC	SPCC	SPCC	SPCC	SPCC	
Tourist homes or inns	N	N	Y	Y	Y	*	Y	N	21.2.2
Townhouses	N	N	SPA	SPA	*	SPA**	N	N	

* See Subsection 21.2.2

** Residential Uses are permitted in the Business B district with the exception that residential uses are prohibited from the ground or street level.

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>BUSINESS USES</u>									
Adult Bookstore	N	N	N	N	N	N	SPCC	N	22-25
Adult Cabaret	N	N	N	N	N	N	SPCC	N	22-25
Adult Dance Club	N	N	N	N	N	N	SPCC	N	22-25
Adult Entertainment Use	N	N	N	N	N	N	SPCC	N	22-25
Adult Motion Picture Theater	N	N	N	N	N	N	SPCC	N	22-25
Adult Paraphernalia Store	N	N	N	N	N	N	SPCC	N	22-25
Adult Theater	N	N	N	N	N	N	SPCC	N	22-25
Adult Video Store	N	N	N	N	N	N	SPCC	N	22-25
Automobile parking garages and lots	N	N	N	SPBA	SPBA	SPBA	Y	N	22.4.2
Automotive dealer	N	N	N	N	N	SPBA	SPBA	N	
Automotive service stations for the dispensing of fuel, washing and lubricating of vehicles and such minor repairs as changing tires or cleaning plugs	N	N	N	N	SPBA	SPBA	SPBA	N	21.3.1
Automotive supply store	N	N	N	N	N	Y	Y	N	
Banks	N	N	N	N	N	Y	Y	N	
Bus depots, taxi stands and other passenger stations	N	N	N	N	SPA	SPA	SPA	N	21.3.2
Business and Professional Office or Building:									
• Converted from a single family residence	N	N	N	N	Y	Y	Y	Y	
• Not converted from single family residence	N	N	N	Y	SPBA	Y	Y	Y	
Business or trade school	N	N	N	N	N	Y	Y	N	

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>BUSINESS USES (continued)</u>									
Department store	N	N	N	N	N	Y	Y	N	
Drive-in restaurants	N	N	N	N	N	N	Y	N	
Feed and grain store	N	N	N	N	N	N	Y	N	
Funeral homes or undertaking facilities:									19.2.4
• Converted from single family residence	N	N	Y	Y	N	SPBA	Y	N	20.2
• Not converted from single family residence	N	N	Y	Y	N	SPBA	Y	N	
Furniture store	N	N	N	N	N	Y	Y	N	
Hardware store	N	N	N	N	N	Y	Y	N	
Home occupations	Y	Y	Y	Y	Y	Y	Y	Y	16.2
Home offices	Y	Y	Y	Y	Y	Y	Y	Y	16.2
Hotels	N	N	N	N	N	Y	Y	Y	
Household furnishing store	N	N	N	N	N	Y	Y	N	
Martial Arts School/Studio (<i>Amended Nov. 22, 2004</i>)	N	N	N	N	SPBA	Y	Y	N	
Miscellaneous food and drink preparation and service	N	N	N	N	N	Y	Y	N	
Mixed Use Development Project:									
• On Sites over 20 acres (<i>Amended January 27, 2003</i>)	N	N	N	N	N	N	N	SPPB	
• On Sites less than 20 acres (<i>Amended January 27, 2003</i>)	N	N	N	N	N	N	N	SPCC	24.2.5
Motels	N	N	N	N	N	SPBA	SPBA	SPBA	
Music or dance school	N	N	N	N	N	Y	Y	N	
Neighborhood Retail Stores	N	N	N	N	Y	Y	Y	N	21.2.1

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>BUSINESS USES (continued)</u>									
Office displays or interior sales space of custom shops & wholesale jobbing, assembly, distributing or printing establishments when approved by the Director of Inspections	N	N	N	N	N	Y	Y	N	22.2.3
Personal and consumer service establishments conducting business directly with the customer, including:									22-21
• Dry cleaning	N	N	N	N	Y	Y	Y	N	
• Laundry pick-up station	N	N	N	N	Y	Y	Y	N	
• Beautician	N	N	N	N	Y	Y	Y	N	
• Barber shop	N	N	N	N	Y	Y	Y	N	
• Shoemaker	N	N	N	N	Y	Y	Y	N	
• Dressmaker shop	N	N	N	N	Y	Y	Y	N	
• Tailor shop	N	N	N	N	Y	Y	Y	N	
Places of amusement, assembly and public, private and commercial recreational activities Places of assembly for uses found in M.G.L. c. 40A, Sec. 3 are exempt from this provision.	N	N	N	Y	N	SPBA	Y	N	22.4.1
Printing and publishing	N	N	N	N	Y	Y	N	N	
Processing of grain, vegetables or dairy products for human consumption except that outside storage of products, by-products or waste is prohibited	N	N	N	N	N	N	Y	SPBA	
Restaurants with dining room and banquet facilities including the right to dispense alcoholic beverages	N	N	N	N	Y	Y	Y	N	

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>BUSINESS USES (continued)</u>									
Salesrooms and places for repair and service of boats, trucks, cars, and farm equipment and building supplies	N	N	N	N	N	N	Y	N	
Sporting goods store	N	N	N	N	N	Y	Y	N	
Stores primarily selling radios, televisions, refrigerators or appliances, electronics	N	N	N	N	N	N	Y	N	
Television or radio broadcasting studios or stations	N	N	N	N	N	Y	Y	N	22.2
Transportation or trade depots	N	N	N	N	N	N	SPBA	SPBA	
Warehousing	N	N	N	N	N	N	Y	Y*	
Wholesale offices and showrooms	N	N	N	N	N	N	Y	N	

* When used in conjunction with other existing uses located within the City. Otherwise warehousing is permitted with a Special Permit from City Council.

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>INDUSTRIAL USES</u>									
Industrial Research and Development Facilities	N	N	N	N	N	SPPB	Y	Y	
Light manufacturing using portable electrical machinery; provided that it is above the ground floor of a business building	N	N	N	N	N	SPPB	Y	Y	22.5.1
Manufacturing of precision instruments, tool and die, dental, medical and optical equipment and electrical equipment	N	N	N	N	N	N	N	Y	
Manufacturing of products for on-site retail sale	N	N	N	N	N	N	Y	Y	
Manufacturing	N	N	N	N	N	N	N	Y	
Research, development and production utilizing Recombinant DNA technology, provided that the uses fully comply with the provisions of Chapter 19A of the Leominster Municipal Code	N	N	N	N	N	SPPB	Y	Y	24.2
Service buildings built and maintained by a manufacturer or office complex, intended for use by employees (i.e., restaurant, bank, drug store)	N	N	N	N	N	N	N	Y	
Storage and Distribution of Home Heating Fuels (Amended September 12, 2005)	N	N	N	N	N	N	SPBA	Y	

Uses	Districts								References
	RRA	RAA	RB	RC	BA	BB	C	I	
<u>ACCESSORY USES</u>									
<u>Residential</u>									
Keeping poultry for private use									
• Flocks of 10 or less	Y	Y	Y	Y	Y	Y	Y	Y	16.6
• Flocks between 11 and 50	SPA	SPA	SPA	SPA	N	N	N	N	
Lodgers or boarders									
• Four or less	Y	Y	Y	Y	Y	Y	Y	Y	16.6
• More than four	N	N	Y	Y	N	N	N	N	
Uses residential or accessory to residential use, which are for the owner or occupant and which are limited to those described in subsection 16.6	Y	Y	Y	Y	Y	Y	Y	Y	16.6
<u>Farm</u>									
Garages as described in subsection 16.6	Y	Y	Y	Y	Y	Y	Y	Y	16.6
Stands for the sale of produce mainly on the premises only	Y	Y	Y	Y	Y	Y	Y	Y	16.6
<u>Other</u>									
Fences of four feet or more in height with provisions of subsection 16.5	Y	Y	Y	Y	Y	Y	Y	Y	16.5
Keeping of saddle horses, private kennels, livestock or other farm animals for use only by residents of the premises	Y	SPA	SPA	SPA	N	N	Y	Y	16.6
Scientific research (see subsection 16.8)	SPPB	SPPB	SPPB	SPPB	SPPB	SPPB	SPPB	SPPB	16.8
Signs (see Article XII)									

ARTICLE III DIMENSIONAL REGULATIONS

Section 22-27 General Requirements

For the purpose of this section, all principal buildings may be built on any lot located in a district in which building is permitted, provided:

- 27.1 It is located so as to comply with the requirements for height and yards set out in subsection 27.8.
- 27.2 The lot contains at least the area required by subsection 27.8.
- 27.3 The lot is shaped such that it is capable of containing a circle with a diameter equal to at least the minimum frontage for that district and within which any principal building placed shall be the minimum yard requirements from any lot lines.
- 27.4 No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, setback, yard or height provisions of this section applicable to the construction of the building on the lot, provided that this subsection shall not apply when a portion of lot is taken or conveyed for a public purpose. [In the Rural Residence and Agriculture and the Residence A and Agriculture Districts, no width dimensions of a front yard (as defined in Article I, Section 22-4) shall be less than the required lot frontage distance for the applicable district. ~~provided, however, that this minimum front yard width requirement shall not apply to lots located within the Water Supply Protection District.~~ *(Amended September 27, 2004)*
- 27.5 No building in any district need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwelling or other principal buildings located on the lots adjacent thereto on each side. In determining such average, a vacant side lot having a frontage of fifty feet or more shall be considered as though occupied by a building having the required setback set out in subsection 27.8. If the lot adjacent to the lot in question has a frontage of less than fifty feet, then the lot next adjacent thereto shall be deemed to be the adjacent lot.
- 27.6 Nothing contained in this section shall prevent the projection of cornices or eaves not exceeding eighteen inches in width or of uncovered steps, unroofed porches or window sills into a required yard or other open space.
- 27.7 In all districts except within the flight path of commercial or governmental airports, farm buildings, churches, municipal or institutional buildings and spires, domes, steeples, radio towers, chimneys, broadcasting and television antennas, bulkheads, cooling towers, ventilators, and other appurtenances usually carried above the roof may have any height, unless otherwise provided in this Ordinance.
- 27.8 Intensity regulations for principal structures shall be as set out in the following table. Residential lots in any other district than which they are permitted shall comply with the intensity regulations of the Residence District adjacent to that district, and in the case where two or more Residence Districts are adjacent to the district, the intensity regulations of the least restricted Residence District shall apply.

District & Minimum Lot Area	Minimum Lot Width	Minimum Side	Front Yard	Dimensions Rear	Number of Stories	Minimum Lot Frontage
Water Supply Protection District 2 acres (87,120 square feet) 3 acres (130,680 square feet)* (Amended Sept. 27, 2004)	200 feet	20 feet	30 feet	40 feet	2.5	175 feet*
Rural Residence and Agriculture 1 acre (43,560 square feet)	130 feet	20 feet	30 feet	40 feet	2.5	not sewerd- -175 feet* sewerd-- 120 feet
Residence A and Agriculture 21,780 square feet	100 feet	15 feet	20 feet	30 feet	2.5	80 feet
Residence B 10,000 square feet	80 feet	10 feet	15 feet	20 feet	3	50 feet
Residence C 8,000 square feet	70 feet	8 feet	15 feet	15 feet	3	50 feet
Business A None	none	10 feet where abuts Residence District	15 feet	15 feet	2	20 feet
Business B None	none	10 feet where abuts Residence District	none	none	5	20 feet
Commercial None	none	10 feet where abuts Residence District	25 feet	none	5	20 feet
Industrial None	none	25 feet except 50 feet where abuts Residence District	25 feet	25 feet except for building extending through block or to a railroad siding, and 50 feet where abuts Residence District	5	30 feet

~~* Except that in the case of the division of property on an existing public way into two (2) non-sewered lots, the minimum lot frontage for each lot shall be 120 feet upon approval by the Board of Health. (see next page)~~

** Except that with respect to land in the District that remains in the same record ownership held at the time of the adoption of this amendment, a collective total of three (3) lots located on an accepted public way(s) that existed at the time of the adoption of this amendment anywhere in the District may have a minimum lot frontage for each lot of 120 feet, upon approval of the Board of Health, and a Minimum Lot Area of 2 acres (87,120 square feet".*
(Amended September 27, 2004)

- 27.9 A trailer shall be set back at least fifteen (15) feet from any street line or driveway serving such trailer. A trailer shall be placed at least five (5) feet from any side lot line, and no trailer shall be nearer than ten (10) feet from any other trailer. A trailer shall be placed at least six (6) feet from any rear lot line.

Section 22-28 Location of Accessory Structures

- 28.1 The yard provisions for principal structures shall apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.
- 28.2 Accessory structures, both detached or attached to the principal structure, when not used for human occupancy and not more than one story in height, may extend not more than five feet from the required side or rear lot line.
- 28.3 A detached accessory structure of one story shall not be closer to the principal structure than ten feet. A detached accessory structure of more than one story shall not be closer to the principal structure than fifteen feet and shall not be closer than ten feet to any side or rear lot line.
- 28.4 No accessory structure or structures shall occupy more than twenty-five percent of the required rear or side yard areas.

Section 22-29 Floor Area for Motel and Hotel Units

Floor Area requirements for motels and hotels shall have a minimum of one hundred twenty-five square feet of floor area per dwelling unit.

Section 22-30 Corner Clearance

On a corner lot in any district, in order that visibility is unobstructed at intersections, no sign, fence, wall, tree, hedge, or other vegetation between three and eight feet above the established street grades shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line adjoining each street line at points which are twenty feet distant from the point of intersection measured along such street lines.

Section 22-31 Development Density Standards

- 31.1 Ten percent (10%) of all lots shall be usable open space as defined in Article X.
- 31.2 Gross floor area shall not exceed three times the total lot area.

ARTICLE IV BOARD OF APPEALS

Section 22-32 Creation, Membership, Appointment

A Board of Appeals consisting of five members and two associates shall be appointed by the Mayor subject to confirmation of the City Council as provided for in Section 12 of Chapter 40A of the Massachusetts General Laws. The Board of Appeals shall act on all matters pursuant to Massachusetts General Laws Chapter 40A and this Ordinance. In performing its function, the Board of Appeals shall give due consideration to promoting the public health, safety, convenience, and welfare, encouraging the most appropriate use of land and conserving property values; that it shall permit no building or use of land or building that is injurious, noxious, offensive or detrimental to a neighborhood and that it shall prescribe appropriate conditions and safeguards in each case.

The Board of Appeals shall adopt rules not inconsistent with the provisions of the Zoning Ordinance for the conduct of its business and for purposes of this Ordinance and shall file a copy of said rules with the City Clerk.

Section 22-33 Powers and Duties

The Board of Appeals shall have all the powers and duties prescribed by law and this Ordinance which are more particularly specified as follows:

- 33.1 To hear and decide any appeal from a decision by the Director of Inspections, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- 33.2 To hear and decide application for Special Permits upon which the Board is empowered to act in accordance with the provisions concerning Special Permits contained in Section 22-13 of this Ordinance.
- 33.3 To hear and decide petitions for Variances in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby strict application of the Ordinance would result in practical difficulty or unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved. In granting such a Variance, the Board of Appeals must find that all of the following are met:
 - 33.3.1 That there are unique circumstances relative to the soil conditions, shape, topography, or other similar physical characteristics which specifically affect the land or structure in question, but not affecting generally the zoning district in which the land or structure is located.
 - 33.3.2 That literal enforcement of the Ordinance would involve substantial hardship, financial or otherwise.
 - 33.3.3 That desirable relief may be granted without substantially derogating from the intent and purpose of the Zoning Ordinance.
 - 33.3.4 That desirable relief may be granted without substantial detriment to the public good.

The Board of Appeals may impose conditions, safeguards, and limitations of time and use. However, the conditions cannot require continued ownership of the land or structure to which the Variance pertains.

If the rights authorized by a Variance are not exercised within one year of the date of approval, they shall lapse and may be reestablished only after notice of a new hearing are held.

Section 22-34 Procedures

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this section. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Any appeal to the Board shall be filed within thirty days from the date of the order or decision which is being appealed. Every appeal

shall refer to the specific provisions of the Section involved and shall exactly set forth the interpretation that is claimed, the details of the Variance that is applied for and the grounds on which it is claimed that the Variance should be granted.

Meetings of the Board of Appeals shall be held at the call of the Chair or when called in such other manner as the Board shall determine in its rules. The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it within sixty-five days from the transmittal to the Board of such appeal, application, or petition. The Board shall cause notice of such hearing to be published and sent to parties in interest, and shall notify the Planning Board of Leominster, and request its advisory opinion, and shall notify the planning boards of all adjacent cities and towns of the hearing. The Chair, or in his/her absence, the acting Chair, may administer oaths, summon witnesses, and call for the production of papers.

The concurring vote of four members of the Board shall be necessary to reverse any order or decision of the Director of Inspections, to effect any Variance in the application of any Ordinance, or to grant any special permit.

Decisions of the Board of Appeals shall be made and filed in accordance with G.L. c. 40A.

ARTICLE V FLOODPLAIN DISTRICT

Section 22-35 Purpose

The purpose of this Article, in addition to the purposes enumerated in Section 22-3 of this Ordinance, is to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain, to ensure proper floodplain management consistent with criteria established by the National Flood Insurance Program, and to preserve and maintain the ground water table and water recharge areas within the floodplain. It is also designed to take into account floodplain management programs of neighboring areas. (11-8-82)

Section 22-36 Floodplain District Delineation

36.1 The floodplain district shall include those areas designated as a floodway on the Leominster, Massachusetts Flood Boundary and Floodway Map (the "FBFM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, and all special flood hazard areas designated as either Zone A or Zone A-I through A-30 on the Leominster, Massachusetts Flood Insurance Rate Map (the "FIRM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, as the same may be amended from time to time. All existing zoning districts within the confines of the Floodplain District at the time of the passage of this Ordinance shall remain in force as specifically allowed and described in other sections of the Zoning Ordinance and as shown, defined and bounded on the map entitled "Leominster, Massachusetts, Zoning Map" or as such map and zoning districts delineated thereon are hereafter amended. Said existing zoning districts shall be subject also to the further requirements of Section 22-37.

Section 22-37 Floodplain Use Regulations

- 37.1 All development, including structural and nonstructural activities, whether permitted by right or by Special Permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently Section 744). Whenever the requirements of this Article differ from those prescribed in other laws, Ordinances and codes, those requirements designed to reduce flood losses shall take precedence.
- 37.2 Within those areas designated as a floodway on the FBFM, the following uses of low flood damage potential and causing no obstruction to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:
- 37.2.1 Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
 - 37.2.2 Forestry and nursery uses;
 - 37.2.3 Outdoor recreational uses, including fishing, boating, play areas, etc.;
 - 37.2.4 Conservation of water, plants, wildlife;
 - 37.2.5 Wildlife management areas, foot, bicycle and/or horse paths;
 - 37.2.6 Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and
 - 37.2.7 Buildings lawfully existing prior to the adoption of these provisions.
- 37.3 Other than as permitted by subsection 37.2, no use, structure, building, encroachment, improvement or development shall be erected, constructed, improved, created or moved, no earth or other materials shall be dumped, filled, excavated, or transferred, within those areas designated as a floodway on the FBFM or as Zone A, Zone AO, Zone AH, Zone AI through A30, or Zone A99 on the FIRM, without first obtaining a

Special Permit from the City Council. The City Council, in accordance with Section 9 of Chapter 40A of the Massachusetts General Laws, may issue a Special Permit hereunder, subject to other applicable provisions of this Ordinance, if the application is compliant with the following provisions:

- 37.3.1 The proposed use or activity shall comply in all respects with the provisions applicable to the underlying district;
- 37.3.2 The applicant has submitted adequate information upon which to base a decision, including, but not limited to, a Site Plan prepared by a Massachusetts registered professional engineer showing the proposed activity, existing and proposed topography at two-foot contour intervals and lowest floor elevations of any new or expanded building and certification by a Massachusetts registered professional engineer or architect that the proposed use, structure, building, encroachment, improvement, development, dumping, filling, excavation or transferal will not result in any increase in the flood level during the occurrence of the 100-year flood discharge, and meets the minimum standards set forth in the National Insurance Flood Program rules and regulations;
- 37.3.3 The applicant has demonstrated that the project will not encroach upon the regulatory floodway so as to result in any increase in flood levels within the community during the occurrence of the base flood discharge;
- 37.3.4 If the applicant proposes a subdivision, the applicant has demonstrated that:
 - 37.3.4.1 such proposal minimizes flood damage;
 - 37.3.4.2 all utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - 37.3.4.3 adequate drainage is provided to reduce exposure to flood hazards.
- 37.3.5 If the applicant proposes to relocate or alter a watercourse, the applicant has provided, prior to or at the time of application, written notification by certified mail to:
 - 37.3.5.1 Adjacent downstream and upstream communities;
 - 37.3.5.2 NFIP State Coordinator
Massachusetts Office of Water Resources
100 Cambridge Street
Boston, MA 02202; and
 - 37.3.5.3 NFIP Program Specialist
FEMA Region I, Rm. 462
J.W. McCormick Post Office & Courthouse
Boston, MA 02109
- 37.3.6 Within ten days of receipt of the application, the City Council shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Department of Public Works, Board of Health and the Director of Inspections. Final action shall not be taken until reports have been received from the above boards or until thirty-five days have elapsed from the date of transmittal to such boards; and
- 37.3.7 The City Council may specify such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.
- 37.4 The Director of Inspections shall have the authority to enforce Sections 22-35 through 22-37 of this Article.

ARTICLE VI WATER SUPPLY PROTECTION DISTRICT

Section 22-38 Purpose

The purpose of this Water Supply Protection Ordinance is:

- 38.1 To promote the health, safety and general welfare of the community;
- 38.2 To protect, preserve, and maintain present and potential sources of water supply for the public health and safety;
- 38.3 To protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the City;
- 38.4 To reduce erosion of topsoil and the subsequent sedimentation of surface water bodies; and
- 38.5 To prevent blight and pollution of the environment.

Section 22-39 Scope and Authority

The Water Supply Protection District shall be considered as overlaying other zoning districts. Any uses permitted in the portions of the district so overlaid shall be permitted subject to all the provisions of this district. In cases where the provisions of this district are more stringent than those of the underlying district, the Water Supply Protection District shall supersede.

Section 22-40 Water Supply Protection District Delineation

The Water Supply Protection District is defined as all lands within the City of Leominster lying within the primary and secondary recharge areas of groundwater and watershed areas of reservoirs and aquifers in areas of wells that provide public water supply. These areas are designated as the “Leominster Water Supply Protection District,” as depicted on the map entitled “Water Supply Protection District,” prepared for the Leominster Planning Board, based on the Zone II Delineation prepared by Earth Tech for the Department of Environmental Protection in June, 1999, and on file in the Planning Board office. The Water Supply Protection District is hereby incorporated as part of the “Zoning Map of Leominster, Massachusetts” on file in the City Clerk’s office.

Where bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. However, the Planning Board retains its authority to determine property location with regard to said Water Supply Protection District.

At the request of the owner(s), the City may engage a professional geologist, soil scientist, or engineer trained in hydrogeology to determine more accurately the location and extent of a protection area, and charge the owner(s) for the cost of the investigation.

Section 22-41 Water Supply Protection Use Regulations

- 41.1 Whenever the requirements of this Article differ from those prescribed in other laws, Ordinances and codes, the stricter requirements designated to protect water supplies will take precedence.
- 41.2 The following uses shall be PERMITTED within the Water Supply Protection District as a matter of right where allowed by law or regulation.
 - 41.2.1 Conservation of soil, water, plants, and wildlife;
 - 41.2.2 Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;

- 41.2.3 Duck walks, landings, foot and bicycle paths;
- 41.2.4 Proper operation and maintenance of existing water bodies and dams, flash boards and other water control, supply and conservation devices;
- 41.2.5 Maintenance and repair of any existing structure provided there is no increase in permeable areas;
- 41.2.6 Non-intensive agricultural uses (pastures, light grazing, hay), nursery, conservation, forestry and harvesting provided that fertilizers, herbicides and other leachable materials are not stored outdoors nor used in excessive amounts; and

NOTE: Where the application of fertilizers, pesticides, herbicides or other potential contaminants is being made, groundwater quality monitor test wells may be installed and periodically sampled and tested by the City. Such installation and sampling will be conducted by an agent of the Board of Health.

- 41.2.7 Necessary public utilities and facilities designed so as to prevent contamination of surface water and groundwater.

41.3 The following uses are PROHIBITED within the Water Supply Protection District:

- 41.3.1 Disposal of solid wastes, other than brush and stumps;
- 41.3.2 Storage and/or transmission of petroleum or other refined petroleum products except within buildings which they will heat;
- 41.3.3 The disposal of liquid or leachable wastes, wastewater and/or septage residuals, brush and stumps, except residential subsurface waste disposal systems and normal agricultural operations;
- 41.3.4 The use of septic system cleaners which contain toxic organic chemicals;
- 41.3.5 The rendering impervious of more than 15 percent of any lot;
- 41.3.6 Industrial uses which discharge process wastewater including any commercial and service uses discharging wastewater containing contaminants other than normal organic waste;
- 41.3.7 Storage of road salt or deicing chemicals;
- 41.3.8 Use of chemicals for deicing unless deemed necessary for public safety;
- 41.3.9 Dumping of snow brought in from outside the Water Supply Protection District;
- 41.3.10 Animal feedlots;
- 41.3.11 The storage of manure;
- 41.3.12 The mining of land except as incidental to a permitted use; Mining to closer than four feet of the water table is absolutely prohibited;
- 41.3.13 The storage or disposal of hazardous or toxic wastes, as defined by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Act, M.G.L. Chapter 21C;
- 41.3.14 Automotive service stations and motor vehicle repair shops, junk and salvage yards, trucking and bus terminals, car and truck washes and airports;

- 41.3.15 The alteration of any natural site features or topography including but not limited to the cutting or removal of trees or other natural vegetation, or the dumping, filling, excavation, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge prior to obtaining all permits and approvals for final development plans required by this Ordinance;
- 41.3.16 Business and industrial uses or facilities which generate, treat, store, or dispose of hazardous or toxic materials or waste, including but not limited to chemical manufacturing, metal plating, wood preserving, furniture stripping, leather finishing, metal fabricating or manufacturing, electrical equipment manufacturing, dry cleaning, petroleum product manufacturing, photographic processing, and printing;
- 41.3.17 Outdoor storage of pesticides or herbicides.
- 41.4 The following uses are RESTRICTED within the Water Supply Protection District:
- 41.4.1 Petroleum products stored within a building shall be placed on a diked, impermeable surface to prevent spills or leaks from reaching groundwater.
- 41.4.2 The amount of sanitary waste discharged to an on-site sewerage system shall not exceed 150 gallons per day per acre.
- 41.4.3 All runoff from impervious surfaces or otherwise due to development, shall be recharged on the site by being diverted to stormwater infiltration basins covered with natural vegetation. Stormwater infiltration basins must be designed to handle a 25 year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.
- 41.5 In the Water Supply Protection District, the following uses may be PERMITTED BY A SPECIAL PERMIT from the City Council in accordance with the Site Plan review standards in subsection 41.6:
- 41.5.1 Commercial and industrial uses permitted in the underlying district, except for those uses expressly prohibited in subsection 41.3.
- 41.5.2 Residential developments requiring approval under the Subdivision Control Law (M.G.L. Chapter 41).
- 41.5.3 Water discharged from detention facilities or other structures provided it is released in a manner that will prevent erosion and sedimentation and minimize accumulation of debris.
- 41.5.4 Residential development of single-family dwellings, provided that the lot area for each dwelling is at least ~~two~~ three acres in size, *except as set forth in the Table that follows Section 22-27 of the Article III Dimensional Regulations in the case of three (3) non-sewered lots on an existing public way.* **(Amended September 27, 2004) .**
- 41.5.5 Sanitary waste discharge, not exceeding 150 gallons per day per acre, to an on-site sewerage system.
- 41.5.6 Poultry farms and other intensive agricultural operations that are primarily carried on within buildings.
- 41.6 In addition to meeting the Special Permit requirements described in Section 22-13 of the Leominster Zoning Ordinance, each application for a Special Permit in the Water Supply Protection District shall be accompanied by six copies of a Site Plan. The Site Plan, to be prepared by an Engineer registered in the Commonwealth of Massachusetts, shall include, at the minimum, the following:
- 41.6.1 Provisions to prevent contamination of groundwater by petroleum products, hazardous materials or wastes.
- 41.6.2 Drainage recharge features and provisions to prevent loss of recharge.

- 41.6.3 Provisions to prevent soil compaction.
- 41.6.4 Provisions to prevent seepage from sewer pipes.
- 41.6.5 A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Those businesses using or storing such hazardous materials shall file a definitive operating plan.
- 41.6.6 A plot plan showing:
 - 41.6.6.1 Location of wetlands, streams, water bodies, and flood plain;
 - 41.6.6.2 Existing drainage patterns;
 - 41.6.6.3 Existing woodland;
 - 41.6.6.4 Areas having slopes exceeding 15%;
 - 41.6.6.5 Areas to be disturbed by construction;
 - 41.6.6.6 Areas where earth and other material subject to erosion will be temporarily stockpiled;
 - 41.6.6.7 Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the District;
 - 41.6.6.8 Temporary and permanent erosion control measures planned, such as sediment basins, storm water basins, diversions, rip-rap, stabilization seedings, etc.;
 - 41.6.6.9 Temporary work roads to be used during projects;
 - 41.6.6.10 Locations and size of septic system; and
 - 41.6.6.11 Method to contain spillage in fuel filling areas.
- 41.6.7 A storm drainage plan showing:
 - 41.6.7.1 Locations of drains and culverts, and names of streams, rivers, ponds, or reservoirs in the City into which they flow;
 - 41.6.7.2 Discharge peaks and expected velocities at drain or culvert outlets;
 - 41.6.7.3 Conditions above and below outlets and expected flow velocities; and
 - 41.6.7.4 Supporting computations for the above.
- 41.6.8 A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles.
- 41.6.9 A siltation and sedimentation control plan including:
 - 41.6.9.1 Sediment and erosion control structures such as diversions, waterways, slope stabilization structures, sediment basins, etc., in sufficient detail to implement their installation together with referred standards for soil erosion and sediment as appropriate, and design calculations as required for each structure;

- 41.6.9.2 Seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixtures, lime, fertilizer and mulching requirements with referenced standards;
- 41.6.9.3 Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installation, duration of exposure of soils and critical area stabilizations, both temporary and permanent. Indicate dates when critical area stabilization, paving, seeding, mulching or sodding is to be completed; and
- 41.6.9.4 General notes for sediment control that spell out the procedures for implementing the plan.
- 41.7 The City Council shall adopt and from time to time amend rules and regulations which shall prescribe the size, form, content and style of the plans and procedures for submission and approval of such Special Permits. These rules and regulations shall be filed with the City Clerk.
- 41.8 Upon receipt of an application, the City Council shall transmit one copy of the Site Plan to the Conservation Commission, Planning Board, Board of Health, Department of Public Works and the Director of Inspections. Final action shall not be taken until reports have been received from the above Boards or until 35 days have elapsed; except in the case of the Planning Board which shall have an additional 30 days if needed by notifying the City Council in writing prior to the elapsing of the original 35 days.

The Planning Board's report to the City Council shall make specific references to the Site Plan and its recommendations shall weigh heavily in the granting of a Special Permit.

The City Council may, after notice and public hearing as required, grant such a Special Permit if it:

- 41.8.1 Is in harmony with the purpose and intent of this Ordinance and will promote the purposes of the Water Supply Protection District;
- 41.8.2 Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
- 41.8.3 Will not, during construction or thereafter, have an adverse environmental impact on any surface water, aquifer or recharge area;
- 41.8.4 Will not adversely affect an existing or potential water supply; and
- 41.8.5 Is consistent with existing and probable future development of surrounding areas.
- 41.9 Recommendations will also be sought from the Department of Public Works, the Board of Health and the Planning Board.

Section 22-42 Technical Reference

The Technical Reference to be used to prepare and review Site Plans is "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts" 1977, U.S.D.A. Soil Conservation Service, Amherst, Massachusetts. Specific guidelines to be used include, but are not limited to:

- 42.1 Limit grading to only those areas actively undergoing current construction.
- 42.2 The smallest practical area of land should be exposed at one time during development.
- 42.3 Limit the length of time graded areas are exposed.
- 42.4 Provide temporary or permanent stabilization of disturbed areas at the earliest opportunity. Limit exposure to less than 60 days.

- 42.5 Retain and protect as much of the natural vegetation as possible.
- 42.6 Permanent improvements such as streets, utilities, storm sewers, vegetated waterways, and other features of the development should be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area scheduled for building construction.
- 42.7 Protect all fill slopes and cut slopes exceeding five feet in height from storm run-off through the use of diversion berms, drop chutes or other acceptable means;
- 42.8 Rough-graded rights-of-way awaiting installation of utilities and/or pavement should be protected by the installation of interceptor berms across the right-of-way as to reduce the length of slope between berms to not more than 250 feet; and
- 42.9 On sites where the above procedures are impractical or not acceptable where the topography permits, install sediment basins, desilting basins, or silt traps to remove sediment from runoff waters.

Section 22-43 Permit Fee

A fee shall be collected by the City Clerk at the time that an application for a Special Permit is submitted. The Planning Board shall recommend to the City Council the adoption of a prorated fee schedule based upon the relative complexity of the project and the proposed scope of work. Said fee schedule shall reflect the cost of the administration and management of the permitting process, and shall be placed on file with the City Clerk. The fee schedule may be amended from time to time by the City Council.

Section 22-44 Permit Withdrawal

Any application for a Special Permit may be withdrawn without prejudice by the applicant prior to the publication of the public hearing notice. Once the notice has been published, however, a withdrawal without prejudice may be permitted only with the approval of the City Council.

ARTICLE VII SCHEDULED DEVELOPMENT

Section 22-45 Purpose

- 46.1 The purpose of this Article is to relate the timing of residential development to the City's ability to provide services to such development, and thereby promote the education, health, safety, convenience, and welfare of the inhabitants of the City, by regulating the maximum rate at which individual residential developments may proceed.

Section 22-46 Procedure

- 46.1 This Article shall take effect only when and if the Director of Inspections determines that 200 non-exempt dwelling units within subdivisions, contiguous parcels, multi-family complexes, and mobile home parks have been authorized city-wide within a twenty-four (24) month period.
- 46.2 While this Article is in effect, the Director of Inspections shall issue building permits for construction of new dwelling units given final approval after passage of this Article, only if permit issuance will not result in authorizing construction within a twenty-four (24) month period of more than 15 units or 25 percent of the units potentially allowed in each development, whichever is greater.
- 46.3 In no case, while this Article is in effect, will the Director of Inspections exceed the issuance of 100 building permits in a twelve (12) month period for those residential developments specified in this Ordinance.
- 46.4 Permits shall be issued hereunder for each specific subdivision lot after the date so designated for the lot on a development schedule which has been approved by the Planning Board and recorded with the subdivision plan which created the lot. Planning Board approval of a development schedule shall provide that:
- 46.4.1 The schedule designates for building not more than 15 units or 25 percent of the potential dwelling units in the subdivision, whichever is greater, within the first two years (24 months) following definitive plan endorsement;
- 46.4.2 In each year thereafter, the schedule permits construction of not more than 20 units or 25 percent of the total number of potential dwelling units in the subdivision, whichever is greater;
- 46.4.3 In the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable; and
- 46.4.4 In the opinion of the Planning Board, the development schedule will not place an unreasonable burden on the City.
- 46.5 In authorizing multi-family use, the Special Permit or Variance granting authority will establish the same development schedule designated for subdivision.

Section 22-47 Exemptions

- 47.1 All rental units for low and moderate income households developed and/or operated under a federal or state subsidy program.
- 47.2 All units which meet the local definition of affordable housing.
- 47.3 Insofar as the subdivisions are not exempted by G.L. Chapter 40A, Section 6, from the provisions of this Ordinance, the period of time provided under G.L. Chapter 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this Ordinance, as to protect such subdivisions against further changes in use and density requirements.

- 47.4 All units within a Residential Social Service Facility, Continuing Care Retirement Community and Assisted Living facilities.
- 47.5 For the purposes of the Article, any person who owned a parcel of land in Leominster prior to the effective date of this Ordinance, shall receive a one-time exemption for one building permit for the purpose of constructing a single-family unit on the parcel owned. The issuance of a building permit for this purpose shall, however, count toward the 200 dwelling unit limit.

ARTICLE VIII SITE PLAN APPROVAL

Section 22-48 Site Plan Approval Applicability

In all instances specified in the Table of Uses, Section 22-26, indicating that Site Plan Approval is required, and in all cases listed below, approval of a Site Plan shall not be granted except in conformity with a Site Plan bearing an endorsement of approval by the Planning Board and other boards as deemed appropriate by the Planning Board, including the following: Director of Inspections, Board of Health, Conservation Commission, Fire Department, Police Department, and Department of Public Works.

A Site Plan Approval from the Planning Board shall be required where a new use or expansion of an existing use will result in:

- ten (10) or more new parking spaces or an increase of parking spaces of 25 percent or more;
- the creation of 10,000 square feet of new gross floor area on a single lot;
- more than one building on a lot;
- any business that will utilize a drive through facility or window.

Section 22-49 General Purpose and Objectives

Site Plan Approval is a regulatory role of the Planning Board, intended to control site development. The Planning Board shall not deny Site Plan Approval based upon the proposed use of the property if that use is one which is allowed as a matter of right. Site Plan Approval is utilized to accomplish the purposes set forth in Section 22-3 of this Ordinance as to the specific goals of:

- facilitating traffic channelization and control;
- assuring adequate drainage of surface water; and
- protecting the environment, property values, abutting properties and visual amenities

To facilitate the administration of the Section, no building permit for the construction, exterior alteration, relocation, occupancy or change in use of any building, structure or premises, shall be granted until the provisions of this Ordinance have been fulfilled.

In reviewing a Site Plan application, the Planning Board shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:

- 49.1 That the proposed Site Plan shall be in conformance with the intent of the zoning district and shall not take precedence over specific provisions of the Zoning Ordinance.
- 49.2 That all buildings, structures, uses, equipment and materials are readily accessible for police and fire protection.
- 49.3 That adequate off-street parking and loading spaces are provided to prevent traffic congestion; that all parking spaces, maneuvering areas are suitably identified and designed to meet standards specified within this Ordinance; and that provision is made for safe pedestrian movement within and adjacent to the property by the installation of sidewalks.
- 49.4 That all proposed pedestrian access ways do not create traffic hazards and are:
 - 49.4.1 adequate, but not excessive in number;
 - 49.4.2 adequate in width, grade, alignment and visibility;
 - 49.4.3 adequate distance from street corners, places of public assembly and other access ways; and
 - 49.4.4 adequate design for other safety considerations.

- 49.5 That the general landscaping of the site complies with the purpose and intent of this Ordinance; that existing trees are preserved to the maximum extent possible; that parking storage, refuse and service areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way.
- 49.6 That lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation; that the glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way.
- 49.7 That all utility systems are suitably located, adequately designed and properly installed to serve the proposed uses, to protect the property from adverse pollution.
- 49.8 That the development of the site will preserve sensitive environmental land features such as steep slopes, wetlands, and large rock outcroppings and will attempt to preserve public scenic views or historically significant features.
- 49.9 That the location and size of proposed buildings, uses or structures, as well as the nature and intensity of the operations involved or conducted in connection therewith, will be in general harmony with the surrounding neighborhood.

Section 22-50 Application

Each application for Site Plan Approval shall be submitted to the Planning Board accompanied by ten (10) copies of the Site Plan. The Planning Board shall, within five (5) days, transmit one copy each to the Director of Inspections, Board of Health, Conservation Commission, and other appropriate boards and departments.

The Director of Planning and the Chair of the Planning Board shall have the authority to waive the necessity for Planning Board approval for changes in use of existing buildings. The Director and the Chair shall report the waiver to the Planning Board.

Section 22-51 Procedure for Review

- 51.1 Said Site Plan shall be prepared by a Massachusetts registered professional architect, landscape architect, or a registered professional engineer, and shall show the following:
- 51.1.1 All property boundaries and the use and ownership of adjacent land and the location and use of any building thereon within three hundred (300) feet of the boundary of the subject property. The "City of Leominster, Assessor Maps" as amended to the date of filing said Site Plan shall be acceptable to show the information required by this paragraph.
- 51.1.2 Date, North arrow, and numerical and graphical scale.
- 51.1.3 The Site Plan map shall illustrate the existing and proposed conditions of the property including existing and proposed contours at intervals of two (2) feet, and the location of all existing wooded areas, watercourses, wetlands, and other significant features and, where, appropriate, the boundary of the flood hazard area.
- 51.1.4 All existing and proposed buildings, structures, parking spaces, driveways, driveway openings, loading areas and service areas on the subject property.
- 51.1.5 A written description of the proposed use or uses.
- 51.1.6 Location Map. An accurate scale map at a scale of 1"=1000' shall be submitted showing the subject property and all property and streets within 1000'.

- 51.1.7 Easements. Location, width and purpose of all existing and proposed easements and rights-of-way on the property.
- 51.1.8 Provisions for screening, surfacing, lighting, landscaping (including fences, wall, planting area, and walks) and signs. The landscaping plan shall illustrate the existing and proposed landscape development of the property, including the location, general layout, type and size of buffer or landscape area, plant material, fencing, screening devices, decorative paving or other materials proposed.
- 51.1.9 Provisions for waste disposal, drainage, dust, erosion control, water and power supply. All refuse containers shall be screened from view from the street, and wherever possible shall be located at the rear of the property.
- 51.1.10 Provisions for snow removal.
- 51.1.11 Location, arrangement and dimensions of automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits and ramps.
- 51.1.12 Location, arrangement and dimensions of loading and unloading areas.
- 51.1.13 Location and dimensions of the pedestrian walkways, entrances and exits.
- 51.1.14 Location, size, height, orientation and design of all signs.
- 51.1.15 Location, size, height, orientation and design of any outdoor lighting.
- 51.1.16 Location and design of all existing and proposed sanitary sewer, storm drainage, water supply facilities and above ground utilities. All public utilities shall substantiate that such underground placement is impractical.
- 51.2 Period of Review - The period of review for a Site Plan Approval shall be as follows:
 - 51.2.1 Within seven (7) days of receipt of a complete application, the Planning Department shall forward copies of the Site Plan to all departments and boards deemed relevant by the Planning Board.
 - 51.2.2 Within 65 days of submission, the Planning Board shall hold a public informational meeting on the application.
 - 51.2.3 Within 90 days of the informational meeting, the Planning Board shall act on the application.

Section 22-52 Approval by the Director of Inspections

- 52.1 In reviewing a Site Plan under this section, the Planning Board shall give due consideration to the Director of Inspections reports and shall communicate all subsequent decisions to the Board of Health and Conservation Commission. The following standards shall be considered by the aforementioned Boards in the review and evaluation of a Site Plan to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:
 - 52.1.1 Protection from flood hazards as stated in Article V, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant material; extent of paving; effect of fill; roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances; and provisions for snow removal.

Section 22-53 Site Design Standards for Non-Residential Development

The purpose of the following site design standards is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety, particularly with regard to abutters, and to the suitability of a proposed use on a site. Before the granting of any Site Plan Approval, the Planning Board shall assure that each Site Plan submitted for review shall comply in full with the following site design standards:

- 53.1 Storm Water Runoff - For any site containing 80,000 square feet of land area or more, the peak rate of storm water runoff including sudden snow melt off the development site to the drainage area(s) shall not exceed the rate existing prior to the new construction based on a 10 year design storm. The applicant shall provide the analysis, certified by a Massachusetts registered Civil Engineer, necessary to document the previous and proposed run-off rates. The Planning Board may authorize the use of storm water drainage facilities located off the development site and designed to serve one or more lots provided it finds that:
 - 53.1.1 The peak rate of storm water runoff from such off site facilities does not exceed the rate existing prior to the new construction based on a 25 year design storm; and
 - 53.1.2 The applicant has retained the rights and powers necessary to assure that the off site storm water drainage facilities will be properly maintained in good working order.
- 53.2 Outdoor Lighting - In the area of new construction, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties. Except for low-level intensity pedestrian lighting with a height of less than eight (8) feet, all outdoor lighting shall be designed and located so that:
 - 53.2.1 The luminaire has an angle of cutoff less than 76 degrees; and
 - 53.2.2 a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site. On sites abutting residential properties, there shall be no obtrusive lighting from 10:00 p.m. to dawn.
- 53.3 Common Driveway in the Commercial or Industrial Districts - A common driveway may serve two or more lots used for business or industrial use and located in the commercial or industrial districts provided that the common driveway is no wider than 24 feet at any point where it crosses required open space or any parking setback area required under Article XI. The Planning Board shall ensure that the common driveway shall not be located or designed to derogate from the intent of the Ordinance to provide suitable open space on each site.
- 53.4 Open Space Landscaping Standards - Any landscaping on open space shall be designed to enhance the visual impact of the use upon the lot and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements. Open space areas shall be kept free of encroachment by all buildings, structures, storage areas or parking. Open space landscaping shall be maintained as open planted areas and used to: (1) ensure buffers between properties, (2) provide landscaped areas between buildings, (3) minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs, (4) minimize the impact of the use of the property on land and water resources, and (5) ensure access for emergency vehicles.
 - 53.4.1 Where a business or industrial use abuts a residential district, a landscape buffer of a minimum of fifty (50) feet in depth designed to mitigate the impact of the business or industrial use on abutting residential districts may be required.
 - 53.4.2 All parking lots and loading facilities shall be suitably landscaped to minimize their visual impact on the lot and upon adjacent property by the use of existing vegetation where appropriate and by the use of trees, shrubs, walls, fences or other landscape elements.

- 53.4.3 Any parking lot containing six (6) or more parking spaces shall include a landscaped area or areas which, in the opinion of the Planning Board, is located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety, and to minimize the adverse effects of the parking or loading facility on the natural environment. Such landscaped areas shall not be less in area than five (5%) percent of the total area of the parking lot. Any landscaping located at the perimeter of a parking lot which, in the opinion of the Planning Board, is deemed to satisfy the above standard shall not be counted as open space but may be included as part or all of the required five (5%) percent parking lot landscaping.
- 53.5 Reserve Parking Spaces - Under a Site Plan Approval, the Planning Board may authorize a decrease in the number of parking spaces and shall have the authority to require an increase in the number of parking spaces required under Article XI, in accordance with the following:
- 53.5.1 The Planning Board may authorize a decrease in the number of parking spaces required under Article XI provided that:
- 53.5.1.1 The decrease in the number of parking spaces is no more than thirty (30) percent of the total number of spaces required under Article XI. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the Site Plan.
- 53.5.1.2 Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of a use or building.
- 53.5.1.3 The parking facility in question has made optimum use of the small car parking provision as prescribed in Article XI, if applicable.
- 53.5.1.4 The parking spaces labeled "Reserve Parking" on the Site Plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within areas counted as buffer, parking setback or open space.
- 53.5.1.5 The decrease in the number of required spaces will not create undue congestion or traffic hazards.
- 53.5.1.6 Such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Ordinance.
- 53.5.2 If after one (1) year after the Certificate of Occupancy is issued for the building or use, the Director of Inspections on his/her own or at the request of the Planning Board determines that additional parking spaces are needed, he/she may require that all or any portion of the spaces shown on the approved Site Plan as "Reserve Parking" be constructed.
- 53.5.3 The Planning Board may require provisions for an increase in the number of parking spaces required under Article XI provided that:
- 53.5.3.1 The increase in the number of parking spaces is no more than 33% of the total number of spaces required under Article XI for the use in question.
- 53.5.3.2 Any such increase in the number of required parking spaces shall be based upon the special nature of a use or building.
- 53.5.3.3 The increased number of parking spaces shall be labeled "Increased Reserve Parking" on the Site Plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer or parking setback. The applicant shall not be required to construct any of the parking spaces labeled as "Increased Reserve Parking" for at least one year following the issuance of a Certificate of Occupancy. Where the

“Increased Reserve Parking” area is required and the applicant has otherwise provided the number of parking spaces required under Article XI, the area of land reserved for the increased number of parking spaces may be deducted from the minimum open space required under Article XI.

If after one year after the issuance of a Certificate of Occupancy, the Director of Inspections finds that all or any of the “Increased Reserve Spaces” are needed, the Director of Inspections shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces identified as “Increased Reserve Spaces” on the Site Plan be constructed within a reasonable time period as specified by the Planning Board.

Section 22-54 Commercial Development Performance Standards

In order to receive Site Plan Approval or a Special Permit, all projects or uses must demonstrate compliance with the Commercial Development Performance Standards herein, and abide by the Environmental Performance Standards set forth in Section 22-55.

54.1 Standards that apply to projects or uses in the Business and Commercial Districts

54.1.1 Parking Standards

Proposed projects or uses must comply with Parking and Off-street Loading regulations in Article XI and the following standards:

- 54.1.1.1 No parking shall be permitted within the required front yard setback of a structure. If the physical configuration of the lot creates a hardship for the property owner to meet this requirement, the Planning Board may allow parking in the front, with adequate screening, as noted in subsection 54.1.5.2.
- 54.1.1.2 To the extent feasible, parking areas shall be shared with adjacent businesses.
- 54.1.1.3 For developments that make a long-term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle (SOV) trips, minimum parking standards may be reduced by a percentage, up to a maximum of twenty percent (20%) to be determined by the Planning Board based upon the adequacy of trip reduction plans submitted in accordance with subsection 54.2.4.

54.1.2 Appearance/Architectural Design Standards

- 54.1.2.1 Architectural design shall be compatible with the character and scale of buildings in the City through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Leominster's character. For example, exterior materials such as wood, metal, vinyl clapboards, stone or brick, and treatment compatible on all four sides, are considered consistent with Leominster's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the City's character. Large work area doors or open bays shall not open toward or face roadways.
- 54.1.2.2 The Planning Board may adopt such regulations as may be necessary to further specify design standards.
- 54.1.2.3 In particular, developments and projects which are located at the gateways or highway corridor entry points to Leominster shall be reviewed for consistency with neighboring uses and the impact the development has to the appearance of the entry to the City.

54.1.3 Lighting Standards

- 54.1.3.1 Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.
- 54.1.3.2 No light standard shall be taller than fifteen (15) feet.

54.1.4 Access Standards

- 54.1.4.1 Curb cuts shall be limited to the minimum width for safe entering and exiting and shall in no case exceed 24 feet in width, per lane.
- 54.1.4.2 All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
- 54.1.4.3 Adequate pedestrian and bicycle access shall be provided as follows:
 - 56.1.4.3.1 Sidewalks shall be provided to enable pedestrian access to adjacent properties, and between individual businesses within a development. The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Section 22-13 and Article VIII. The appropriate authority for by-right uses is the Director of Inspections, for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

54.1.5 Landscaping Standards

- 54.1.5.1 Large parking areas shall be subdivided with landscaped islands so that no paved parking surface shall extend more than eighty (80) feet in width. At least one tree (minimum two (2) inch caliper) per thirty-five (35) parking spaces shall be provided within the area.
- 54.1.5.2 Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use. Plantings must be four (4) feet at planting when abutting a residential zone.
- 54.1.5.3 All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- 54.1.5.4 Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.

54.2 Standards That Apply to Projects or Uses in Commercial Districts

Projects or uses in the Commercial District must abide by the standards in this section in addition to the standards set forth in subsection 54.1.

54.2.1 Access Standards

Applicants for projects or uses within the Commercial District must demonstrate that the project or use will minimize traffic and safety impacts on highways.

- 54.2.1.1 The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:
 - 54.2.1.1.1 Access via a common driveway serving adjacent lots or premises

54.2.1.1.2 Access via an existing side street

54.2.1.1.3 Access via cul-de-sac or loop road shared by adjacent lots or premises.

54.2.1.2 One driveway shall be permitted as a matter of right per business or per project, if a project includes several businesses within a structure or group of structures. Entering and exiting lanes shall be separated by a median strip. Where deemed necessary by the appropriate authority, two driveways may be permitted as part of the Site Plan Approval process which shall be clearly marked "entrance" and "exit". The appropriate authority for by-right uses is the Director of Inspections, and for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

54.2.2 Landscaping and Screening Standards

54.2.2.1 A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium (3 feet to 4 feet) height shrubs, and shade trees (minimum two-inch (2) caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required in subsection 54.1.4.3.1 shall be incorporated into the buffer strip.

54.2.3 Traffic Impact Statement

54.2.3.1 A traffic impact statement shall be prepared, which shall contain:

54.2.3.1.1 Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

54.2.3.1.2 A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.

54.2.3.1.3 Sidewalks for adequate pedestrian and bicycle access shall be provided to adjacent properties and between individual businesses within a development.

54.2.3.2 An additional traffic impact statement shall be prepared for projects over ten thousand (10,000) square feet, which shall contain:

54.2.3.2.1 A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

54.2.3.2.2 An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

54.2.4 Trip Reduction Plan

54.2.4.1 When requested by the Planning Board and where a new building(s) or new use of more than ten thousand (10,000) square feet is proposed, the applicant shall prepare and submit a "Trip Reduction Plan" clearly identifying a combination of transportation systems management strategies that are designed to reduce anticipated vehicle trips by thirty-five (35) percent. These strategies may include, but are not limited to:

- 54.2.4.1.1 Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pick-up site.
- 54.2.4.1.2 Allowing and encouraging flexible work hours and flexible work weeks.
- 54.2.4.1.3 Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bicycle and walking paths, and similar features.
- 54.2.4.1.4 Site designs that are conducive to transit or vanpool use, such as convenient, weather protected transit shelters.
- 54.2.4.1.5 Encouraging employee and customer use of transit services, including providing transit subsidies for improved transit service and accessibility.
- 54.2.4.1.6 Provision of on-site services, retail opportunities, and housing if allowed in the zone.
- 54.2.4.1.7 Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the "Trip Reduction Plan."

Section 22-55 Environmental Performance Standards

Any use permitted by right or by Special Permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards shall apply:

55.1 Emissions

- 55.1.1 Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
- 55.1.2 No emission that can cause any damage to health of animals or vegetation or that can cause excessive soiling, at any point, shall be permitted.
- 55.1.3 No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process that may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system.

55.2 Erosion Control

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:

- 55.2.1 Exposed or disturbed areas due to stripping of vegetation, soil removal, and regarding shall be permanently stabilized within six (6) months of occupancy of a structure.
- 55.2.2 During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff shall be trapped by using staked hay bales or sedimentation traps.
- 55.2.3 Permanent erosion control and vegetative measures shall be in accordance with erosion/sedimentation vegetative practices recommended by the Soil Conservation Service.

55.2.4 All slopes exceeding fifteen (15) percent resulting from the site grading shall be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.

55.2.5 Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

55.3 Discharge

No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

55.4 Glare

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond the lot lines onto neighboring properties, or onto any street.

55.5 Hazardous Activities

55.5.1 No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

55.5.2 All activities that involve hazardous materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

55.6 Hazardous Materials Storage

55.6.1 All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike that shall be high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred ten (110) percent of the capacity of the container(s), so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.

55.6.2 All storage of hazardous materials, at any point, shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

55.7 Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness or volume.

55.8 Stormwater Management

55.8.1 To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:

55.8.1.1 Prevent non-point sources pollution from urban runoff to streams, water bodies or groundwater;

55.8.1.2 Prevent flooding of neighboring or other down-gradient properties; and

55.8.1.3 Promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

Appropriate recharge or detention methods may include: detention basins; vegetated swales; filter media; oil/water separators or other similar methods. Stormwater runoff design shall be in harmony with existing regulations set forth by the City of Leominster and the Commonwealth of Massachusetts.

55.9 Vibration

No offensive vibration shall be permitted at any time.

ARTICLE IX OPEN SPACE COMMUNITY DEVELOPMENT REGULATIONS

Section 22-56 Intent

The purpose of an Open Space Community Development is to:

- 56.1 Allow for greater flexibility and creativity in the design of residential subdivisions.
- 56.2 Encourage the permanent preservation of open space, agricultural lands and other natural resources.
- 56.3 Maintain the traditional New England character and land use pattern in which clustered communities connect with open spaces and farmland.
- 56.4 Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
- 56.5 Encourage a development that uses less land for housing development thereby conserving more open land.

The Open Space Community shall be permitted by Special Permit from the Planning Board in the Rural Residence/Agricultural (RRA) and Residence A/Agricultural (RAA) Districts.

Section 22-57 Design Requirements

A design concept plan, prepared by a professional landscape architect, shall be submitted to the Planning Board for review. Provisions of RRA and RAA may be modified as indicated below when authorized as a Special Permit by the Planning Board subject to all other requirements in this and all pertinent requirements of the Zoning Ordinance and Subdivision Regulations:

- 57.1 **Minimum Tract Sizes.** A tract of land to be developed shall be not less than five (5) acres in size, and shall be in one ownership or shall be the subject of an application signed jointly by the owners of the entire tract. The maximum allowable built area per tract shall be 35 percent (35%).
- 57.2 **Density and Lot Area.** In no case shall the number of dwellings permitted on a tract of land exceed a number that would have been permitted were the district regulations complied with fully. This density maximum is contained in the appropriate district regulations. All wetlands and floodplains shall be excluded from the parcel in calculating the allowable density. The following dimensional requirements shall apply. These requirements reflect developments where individual lots are created as well as developments where all land is kept under common ownership.

			<u>Separate Lots</u>				<u>Commonly Owned</u>
			<u>Minimum Yard Requirements</u>				
<u>District</u>	<u>Lot Area</u>	<u>Minimum Lot Width</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>	<u>Frontage</u>	<u>Minimum Distance Between Buildings</u>
RRA	20,000	85	10	15	15	60	30
RAA	12,500	75	8	10	10	30	20

The yard requirements shall not be reduced from those specified in the District. Minimum lot width shall be measured at building line.

- 57.3 **Permitted Uses.** Single family detached dwelling.
- 57.4 **Utilities.** Each lot shall be serviced by a municipal water service and a municipal sewer. On-site disposal systems may only be permitted if a municipal sewer is not available and if, prior to granting the Special Permit, the Board of Health reports that each lot has passed a satisfactory percolation test and soils examination or that the Board of Health reports that the tract has been sufficiently tested to assure that the lots can comply with its regulations for disposal systems.

57.5 Common Land

- 57.5.1 The area of Common Land shall equal at least 25% of the total area of the Open Space Community Development tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by all the residents of the development. No more than 50% of the minimum required Common Land shall be situated within the floodplain or wetland. Each parcel of Common Land shall have at least 50 feet of frontage and no structure shall be constructed thereon in excess of 15 feet in height nor shall the maximum lot coverage, including paved areas, exceed 10% without Planning Board approval.
- 57.5.2 Provision shall be made so that the Common Land shall be readily accessible to the owners and occupants of the lots in the Open Space Community Development.
- 57.5.3 Subdivision of the common land is prohibited, and a notation to this effect shall be shown on the Definitive Subdivision Plan. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed five percent (5%) coverage of such common land.
- 57.5.4 The Open Land may be preserved and owned as follows:
- 57.5.4.1 Common land may be conveyed to a homeowners association owned by the owners of lots within the development. If such a Community Association is utilized, ownership thereof shall pass with conveyances of lots in perpetuity.
- 57.5.4.2 The common land may be conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space.
- 57.5.4.3 The common land may be conveyed to the City of Leominster, at no cost, and be accepted by the City Council for open space, agricultural or natural resource protection use. Such conveyance shall require City Council approval.
- 57.5.5 In all cases a perpetual restriction of the type described in Massachusetts General Laws, Chapter 184, Section 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the City shall be recorded in respect to such land. Such restriction shall provide that the Common Land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the Common Land as the Planning Board may deem appropriate.
- 57.5.6 In order to ensure that the homeowners association, non-profit organization or trust will properly maintain the Common Land, an instrument(s) shall be recorded at the Worcester County Registry of Deeds (Northern District) which shall, as a minimum, provide:
- 57.5.6.1 A legal description of the Common Land;
- 57.5.6.2 A statement of the purposes for which the Common Land is intended to be used and the restrictions on its use and alienation;
- 57.5.6.3 The type and name of the homeowners association, non-profit organization or trust that will own, manage and maintain the common Land;
- 57.5.6.4 If a homeowners association is the method of ownership of the common land, a list of each owner of a dwelling in the Open Space Community Development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately there from;

- 57.5.6.5 Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and/or officers of the homeowners association, or non-profit organization or trustees of the trust;
- 57.5.6.6 Procedures for the conduct of the affairs and business of the homeowners association, or non—profit organization or trust, including provision for the calling and holding of meetings of members and directors and/or officers of the homeowners association and provisions for quorum and voting requirements for action to be taken. In the case of a homeowners association, each owner of a dwelling shall have voting rights proportional to his/her ownership;
- 57.5.6.7 Provision for the management, maintenance, operation, improvement and repair of the Common Land and facilities thereon, including provisions for obtaining and maintaining adequate insurance. In the case of a homeowners association, there shall be provisions for levying and collecting from the dwelling owners common charges to pay for expenses associated with the Common Land, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership. There shall be a provision that failure to pay the common charge shall result in a lien against the real estate that shall have priority over all other liens with the exception of municipal liens and first mortgages of record; and
- 57.5.6.8 The method by which such instrument or instruments may be amended.

Section 22-58 Plan Requirements and Application Procedures

58.1 Special Permit Procedure

- 58.1.1 As a condition of approval, the applicant shall demonstrate to the Planning Board that the proposed development will result in a desirable and stable residential environment and that both the benefits to the City and the improved design justify modification of the basic district regulations.
- 58.1.2 Each application for a Special Permit hereunder shall be accompanied by a plan in duplicate of the Open Space Community Development prepared in accordance with the specifications of the Planning Board for preliminary subdivisions. A separate grid plan must be submitted showing the subdivision design in conformance with the zoning lot area requirements for the appropriate residential district.
- 58.1.3 A Special Permit for an open space protection development issued hereunder by the Planning Board is primarily an authorization for the use of lots which have less than the normal minimum area or frontage. Subsequent approval by Planning Board of a Definitive Subdivision Plan for the area will be required as set forth in the Subdivision Regulations, including the approval of street and utility systems. A favorable action by the Planning Board on the Special Permit shall not, therefore, be deemed to either constitute subdivision approval or imply that such approval will be given.
- 58.2 Application in Conjunction with the Submission of Subdivision Plan. In connection with the submission of a subdivision plan for Planning Board approval under the Subdivision Control Law or, if no such approval is required after consultation with the Planning Board, any person who desires a Special Permit for an Open Space Community Development shall submit an application in writing in such form as the Planning Board may require which shall include plans meeting the requirements set forth in the Subdivision Rules and Regulations of the Planning Board and such additional information as the Planning Board may require, including:
- 58.2.1 A development statement consisting of a petition, a list of parties in interest, the names of the development team and a description of the tract and the development, including the size of the tract, number of lots together with sufficient information to make a determination on the number of permissible lots, the size of the Common Land parcels, including the area and percent of any Common Land zoned Floodplain/Wetland District and a development schedule for all site construction, including the projected completion date of Common Land improvements.

- 58.2.2 Copies of all proposed instruments are to be recorded with the plans, including the Common Land perpetual restriction, the deed, and the membership of the homeowners association, non-profit organization or trust.
- 58.3 Conditions. If a Special Permit is granted, the Planning Board may impose as a condition that the Common Land shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of type described above, prior to the Planning Board's release of any lots from the subdivision restriction covenant or, if there is no such covenant, prior to the Director of Inspections issuance of a building permit for any lot. The petitioner shall provide the Planning Board with satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp.

Section 22-59 Amendments

- 59.1 Minor Revisions. Following the granting by the Planning Board of a Special Permit under this Section, it may for good cause shown amend the plan solely to make minor changes in lot lines consistent with the Special Permit, provided, however, that no such amendment shall:
- 59.1.1 Grant any reduction in the size or change in location of the Common Open Land as provided in the Special Permit;
- 59.1.2 Grant any change in the layout of the ways as provided in the Special Permit;
- 59.1.3 Increase the number of lots as provided in the Special Permit; or
- 59.1.4 Decrease the dimensional requirements of any lot below the minimum permitted by this Ordinance.
- 59.2 Changes. Any change in the number of lots, the layout of ways, the Common Land and its ownership or use, or any other conditions state in the original Special Permit shall require a new Special Permit issued in accordance with the provisions of this Ordinance.

Section 22-60 Special Permits by City Council

Notwithstanding any provisions to the contrary, the City Council may grant a Special Permit in accordance with the provisions of this Article where the lot area in the Rural Residence and Agriculture District is less than 20,000 square feet but 15,000 square feet or more, or where the lot area in the Residence A and Agriculture District is less than 12,500 square feet but 7,500 square feet or more.

ARTICLE X PLANNED UNIT DEVELOPMENT

Section 22-61 General Description

A "Planned Unit Development" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, business uses and industrial uses. A Planned Unit Development may be allowed by Special Permit to exceed the normal density requirements for the district to the extent authorized by this Ordinance provided that standards for the provision of affordable housing and other standards specified herein are met.

Section 22-62 Purposes

The purposes of this Planned Unit Development Ordinance are to:

- allow for greater variety and flexibility in development forms;
- encourage the redevelopment of underutilized buildings for mixed uses;
- reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity; and
- encourage more compact and efficient developments.

Section 22-63 Uses Allowed by Special Permit

The Planning Board may grant a Special Permit with Site Plan Approval for construction of a Planned Unit Development (PUD). Planned Unit Developments shall be permitted in the Residential B, Residential C, Business A, Business B and Commercial Districts. The Special Permit shall conform to this Ordinance and to G.L. Chapter 40A, Section 9, and to Regulations which the Planning Board shall adopt for carrying out its requirements hereunder. In a Planned Unit Development, the following uses may be allowed by Special Permit:

- 63.1 Single family dwellings;
- 63.2 Two-family dwellings;
- 63.3 Townhouses-single family dwellings connected by one or more walls;
- 63.4 Multifamily dwellings;
- 63.5 Business uses which are permitted in the underlying district; and
- 63.6 Industrial uses which are permitted in the underlying district.

Section 22-64 Density and Dimensional Regulations

- 64.1 Site Area Requirements. For both new construction and expansion, there shall be no minimum square foot requirements.
- 64.2 Usable Open Space. Usable open space shall be considered the part or parts of land or structure within a PUD that are reserved for permanent active or passive recreation use. This space shall exclude parking areas, required setbacks, waterways, walkways, and be open and unobstructed to the sky. Trees, plantings, arbors, flagpoles, sculpture, fountains, swimming pools, open air recreational facilities and similar objects shall not be considered obstructions. In all Planned Unit Developments that are new construction, at least ten percent (10%) of the land shall be set aside as permanent usable open space, for the use of the PUD residents, or for all PUD users, or for the community. The required open space may, at the option of the City Council, be conveyed to the Conservation Commission or to a non-profit conservation organization, or to a corporation or trust representing persons responsible for the PUD and shall be protected by a conservation restriction as required by G.L. Chapter 40A, Section 9, for common open space in Open Space Community Developments. A covenant shall be placed on the land such that no part of the PUD can be built, sold or occupied until such time as a satisfactory written agreement has been executed for the protection of open space.

64.3 Height Requirements. In all PUD projects, the height of buildings shall not exceed a seventy (70) foot height limit above the mean finished grade of abutting properties. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities shall be nine (9) feet.

64.4 There shall be no frontage requirements for uses within the Planned Unit Development.

64.5 Minimum frontage setback, rear and side yard requirements specified in the Table of Dimensional Requirements shall pertain only to the periphery of the Planned Unit Development.

Section 22-65 Utility, Parking, Landscaping and Open Space Requirements

Planned Unit Developments must meet the utility, parking, landscaping and open space requirements of this Ordinance.

Section 22-66 Affordable Housing Requirements

In reviewing an application for Planned Unit Development in which the proposed density exceeds that normally allowed in the district, the Planning Board shall give special consideration to such a proposal which includes affordable housing units amounting to at least ten (10) percent of the total PUD units.

ARTICLE XI OFF-STREET PARKING AND LOADING

Section 22-67 Objectives, Applicability

NOTE: The following terms relative to off-street parking and loading are defined in Definitions: driveway, interior drive, maneuvering aisle, motor vehicle trip, parking lot, and unit parking depth.

- 67.1 Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:
 - 67.1.1 Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
 - 67.1.2 Increase the traffic-carrying capacity of streets and highways in the City and obtain a more efficient utilization of on-street curbside parking;
 - 67.1.3 Reduce hazards to pedestrians upon public sidewalks;
 - 67.1.4 Protect adjoining lots and the general public from nuisances and hazards such as: (1) noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles, (2) glare and heat from parking lots, (3) a lack of visual relief from expanses of paving, and (4) accelerated runoff of surface water from land covered by impervious materials.
- 67.2 No building permit or certification of occupancy shall be issued for the erection of a new building, the enlargement of an existing building, the development of a use not located in a building, or the change from one type of use to another (see Sections 22-69 to 22-71), unless off-street parking spaces or loading bays are provided in accordance with this section.

Section 22-68 Parking, Loading Plan Required

- 68.1 Each application for a Special Permit or Site Plan Approval, or where needed, for a building permit, shall be accompanied by an off-street parking and loading plan showing:
 - 68.1.1 The number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces and loading bays, that shall comply with this Ordinance and accepted engineering practices;
 - 68.1.2 The construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening, and lighting;
 - 68.1.3 The location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back;
 - 68.1.4 Where landscaping is to be provided, the species and size of plant materials; and
 - 68.1.5 A summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard, compact and handicapped parking spaces and the number of loading bays.

Such plan shall be a drawing at a scale of 1" = 20' or 1" = 40' or at such other scale as the Director of Inspections may approve. Where necessary, the Director of Inspections may require that the owner or operator of a use, building, or establishment furnish a statement as to the number of employees working at the use, building, or establishment, or the number of motor vehicle trips (by type of motor vehicle) that are made to and from the use, building or establishment.

Section 22-69 Number of Parking Spaces, Loading Bays

69.1 The number of parking spaces indicated for the corresponding types of uses shall be provided in all zoning districts, except as otherwise indicated.

The symbols under the column parking factor shall mean: s.f.: square feet of net floor area.

Type of Use	Parking Factor <i>(minimum number of parking spaces to be provided)</i>
<u>Residential Uses</u>	
Accessory apartment, rooming unit	1/apartment or unit
Continuing Care Retirement Community/Assisted Living Facility	1 for each 2 bedrooms plus 1/employee
Dwelling unit in one family detached structure	2/dwelling unit
Dwelling unit in: semi-attached dwelling, 2 family dwelling, 3-family dwelling, 4-family dwelling and multi-family dwelling	1.5/dwelling unit for units with 2 or fewer bedrooms, 2/dwelling unit for units with more than 2 bedrooms
Nursing, rest or convalescent home	1 for each 4 beds plus 1/employee
Publicly assisted housing for the elderly	0.5/dwelling unit
<u>Institutional, Educational & Recreational Uses</u>	
Church, temple, auditorium club, lodge, community center	1 per each 10 seats in the largest assembly area
College, technical school	as needed
Dormitory, group quarters	0.5 per bed
Elementary, secondary schools	2/classroom
Gymnasium, stadium, field house	1 per each 6 seats
Hospital	see Health Care Overlay District
Hospital medical office, out-patient clinic	1 per 200 s.f.
Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, related uses	As needed
Public library, art gallery, museum and other non-recreational public facility	1 per each 600 s.f. of floor area open to the public
<u>Agricultural Uses</u>	
Greenhouse, nursery, roadside stand	1 per 1,000 s.f. of display area whether in or outdoors

Type of Use	Parking Factor <i>(minimum number of parking spaces to be provided)</i>
<u>Office Uses</u>	1/250 s.f.
<u>Retail Business</u>	
Retail uses and consumer service establishments (see Section 22-26 Table of Uses except as otherwise classified)	1/250 s.f., in BB, 1/325 s.f. on street level floors, 1/500 s.f., in BB 1/600 in a cellar 1/300 s.f., in BB, 1/400 on all other floors
<u>Other Commercial Uses</u>	
Automotive Service Garage	2 per bay
Barber Shop, Hairdresser	1.5/chair, in BB 0.5/chair
Funeral Parlor	1 per 4 seats in the largest assembly area
<u>Eating Establishments</u>	
Restaurant	1 per employee plus 1 per 4 seats; in BB 1 per 2 employees plus 1 per 6 seats
Take-Out Food Service	1 per employee plus 1 per 5 linear feet of counter space; in BB 1 per 2 employees plus 1 per 7 linear feet of counter space
<u>Amusements, Recreation</u>	
Commercial Amusements	1 per employee plus 1 per alley, machine; in BB 1 per employee plus 1 per 2 alleys, machines
Theater, other Public Assembly	1 per 6 seats
Convention Center	1 per 4 seats in the largest assembly area
Hotel, Motel	1 per guest room
<u>Manufacturing, Research, Industrial Uses</u>	
	1 for each 500 s.f. gross floor area, or 1 for each (3) employees on the largest shift, whichever is greater.
<u>Warehouse</u>	1 per 3,000 sq. feet of gross floor area
<u>All Other Permitted Uses</u>	As needed, usually 1 per employee

Section 22-70 Rules for Interpretation of Sections 22-69 and 22-71

- 70.1 Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof shall require one parking space but after the first such parking space or loading bay, only a fraction of one half or greater shall require an additional space or bay.
- 70.2 Where the requirement is stated “as needed,” the applicant for a permit shall estimate the number of parking spaces or loading bays required to serve the use and shall provide such number; the Director of Inspections shall verify that the number is adequate and shall, if necessary, order that additional spaces or bays be provided.
- 70.3 To simplify the determination of net floor area, 80 percent of the gross floor area may be used.
- 70.4 Where off-street parking or loading serves two or more activities that are different types of uses, including two or more activities that are part of the same principal use, the number of spaces or bays provided shall be the sum of the requirements for the various individual uses which shall be determined, by computing the number of parking spaces and loading bays required for the various individual uses and by then adding those numbers including any fractional number. Parking spaces or loading bays for one activity or use shall not be considered to be providing the required parking or loading bays for any other use, except as provided in subsection 77.3.
- 70.5 Where the requirement is based on the number of employees, the number of spaces shall be based on the number of employees in the peak period, which shall be at least three hours per day for at least three days per week.
- 70.6 Where fixed seats are not used in a place of assembly, each 40 square feet of floor area in the largest assembly area shall equal one seat.
- 70.7 Where uses are of the open air type and are not enclosed in a structure, each square foot of lot devoted to such use shall be considered to be equivalent to one-fifth of a square foot of net floor area.

Section 22-71 Number of Off-Street Loading Bays

- 71.1 The number of off-street loading bays indicated for the corresponding types of uses shall be provided in all zoning districts except as otherwise indicated.

The symbols under the column loading factor shall mean: s.f.: square feet of net floor area.

Type of Use

Loading Factor
(minimum number of Loading bays to be provided)

Institutional Uses

School, college, church, club, library, gallery 1 per first 25,000 s.f., 1 per each additional 75,000 s.f. of loading bays to be provided)

Manufacturing, Research, Industrial Uses

1 per first 10,000 s.f., 1 per each additional 40,000 s.f.

Office Uses

0 for first 10,000 s.f., 1 for next additional 50,000 s.f., 1 for each additional 100,000 s.f. thereafter.

Residential Uses

Nursing, rest or convalescent home

1 per 100 beds

Type of Use**Loading Factor**
(minimum number of Loading bays to be provided)

<u>Restaurants</u>	1 per first 99 seats, 1 per all additional seats.
<u>Retail Business</u>	1 per first 5,000 s.f., 1 per each additional 15,000 s.f.
<u>All other permitted uses</u>	As needed

- 71.2 Required off-street parking spaces or loading bays which, after development, are later dedicated to and accepted by the City and are maintained by the City for off-street parking or loading purposes, shall be deemed to continue to serve the uses or structures for which they were originally provided.

Section 22-72 Parking Spaces for Handicapped Persons

- 72.1 Specially designated parking spaces for the physically handicapped shall be provided, as follows:

Total Number of Spaces	Spaces for Handicapped
10-25	1 space
26-40	5% of total spaces but not less than 2
41-100	4% of total spaces but not less than 3
101-200	3% of total spaces but not less than 4
201-500	2% of total spaces but not less than 6
501-1000	1.5% of total spaces but not less than 10
1001-2000	0.75% of total spaces but not less than 20

- 72.2 Spaces for the handicapped shall be clearly identified by a sign indicating those spaces are reserved for physically handicapped persons. Such spaces shall be located in that portion of the parking lot nearest to the entrance to the use or structure that the parking lot serves.

Section 22-73 Location of Off-Street Parking, Loading Bays

- 73.1 Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except that some parking spaces may be provided on a separate lot as provided in Section 22-77.
- 73.2 No area may be utilized and counted as both a required parking space and a required loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading shall be counted for loading purposes.
- 73.3 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.
- 73.4 Off-street parking spaces required for two or more buildings, uses, or establishments may be provided in a common lot where it is evident that such facilities will continue to be available for the several buildings, uses, or establishments, and if the Board of Appeals shall grant a Special Permit therefore in accordance with Section 22-77.

Section 22-74 Driveways

- 74.1 Each parking space and loading bay shall be connected by a driveway to a street or to an interior drive that leads to a street. Parts of a driveway may be partly on another lot or may straddle a lot line provided the Board of Appeals grants a Special Permit under subsection 77.3.
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- 74.2 In all districts, the number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
- 74.3 Driveways in all residential districts shall not extend closer than three feet to the side lot line. A strip of greenery of not less than three feet shall be provided along the full length of each such driveway and the property line.
- 74.4 Common driveways shall service no more than two lots which have the required frontage and roadway access.

Section 22-75 Driveways Serving Non-Residential Districts

No private way or driveway that serves a non-residential use in a non-residential district shall be built through a residential district.

Section 22-76 Design Standards

- 76.1 Exception for One-Family and Two-Family Dwellings. The provisions of subsections 76.2.5 (backing into a public street), 76.5 (marking of pavement), 76.6 (moving of vehicles) and 76.7 (surfacing, drainage) shall not apply where parking is provided for any one-family or two-family dwelling.
- 76.2 Dimensions
- 76.2.1 On any lot in any district, parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table and elsewhere in this subsection:

Minimum Parking Space and Aisle Dimensions for Parking Lots (in feet)

Angle of Parking	Width of Parking Space			Depth** of Parking Space			Width of Maneuvering Aisle			Unit Parking Depth		
	S	C	H	S	C	H	S	C	H	S	C	H
61-90 degrees	9*	8.5*	12*	19	15	19	22	20	22	60	50	60
46-60 degrees	9	8.5	12	19	15	19	16	15	16	56	48	56
45 degrees	9	8.5	12	19	15	19	14	13	14	53	47	54
Parallel	8	8	12	22	18	22	12	12	12	n/a		

S = Standard

C = Compact

H = Handicapped

* Where one or both of the long sides of a parking space abuts a wall or similar obstruction, the width shall be 12 feet.

** Up to 2 feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.

76.2.2 To be counted as a required parking space, a parallel parking space shall have maneuvering space at least 20 feet deep in front of it in an aisle parallel to and abutting such parking space.

76.2.3 Where columns of a building or structure are located in a parking lot (such as a parking garage under a building) no part of a column may be within three feet of a maneuvering aisle or within the minimum dimensions of a parking space as set forth in subsection 76.2.1.

76.2.4 The width of a driveway for a one-way use shall be a minimum of eight feet and for two-way use shall be a

minimum of 18 feet and a maximum of 30 feet, as measured at the setback line.

- 76.2.5 Where access or egress is provided for a parking lot (five or more spaces), or one or more loading bays, such access or egress shall be so arranged to provide a circulation system or maneuvering space on the lot so that all vehicles may exit from and enter onto a public street by being driven in a forward direction and no vehicle shall be required to enter or leave by backing and no vehicle shall have to stand within a street right-of-way waiting to enter the lot.
- 76.3 Number of Compact Car Spaces. In parking lots containing more than 20 spaces, not more than 33% of such spaces may be designated for use by compact cars. Such compact car spaces shall be located in one or more continuous area, and shall not be intermixed with spaces designed for standard cars and shall be clearly designated by signs or pavement marking. In parking lots with 20 or fewer parking spaces, spaces meeting the minimum dimensions for compact cars are not permitted.
- 76.4 Loading Bays. All required loading bays shall have minimum dimensions as follows: 30 feet long, 12 feet wide and 14 feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Director of Inspections requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles and trailers.
- 76.5 Marking. In a parking lot or loading area the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent. Where fifty (50%) percent or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in an apartment building, parking spaces for guests or visitors to the use or establishment, not to exceed ten (10%) percent of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building that it serves.
- 76.6 Availability, Snow Storage. To insure the availability and utilization of required parking spaces and loading bays on a year-round basis: No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment. A strip of land not less than five feet in width shall be provided on at least two sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or bypassing over any other space or bay. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.
- 76.7 Surfacing, Drainage. All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership.

It is the intent of this Section that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this Section. The off-street parking and loading plan required by this Section shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Director of Inspections may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this section.

- 76.8 Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be ten

(10%) percent. The maximum grade of any outdoor driveway shall be twelve (12%) percent.

76.9 Landscaping

- 76.9.1 On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every eight parking spaces abutting the perimeter; such trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- 76.9.2 In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than five feet in width shall be provided. The landscaped strip may be provided either: (1) between the rows of parking spaces parallel to the aisle or (2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each strip at least three trees and in all such strips not less than one tree for every eight parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- 76.9.3 Trees required by this Section shall be at least two inches diameter at a height four feet above the ground at the time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this Section.

Section 22-77 Exceptions, Special Permits

In accordance with Section 22-13, and where consistent with the objectives set forth in subsection 67.1, the Board of Appeals may grant a Special Permit modifying the requirements of this Section in the following cases:

- 77.1 Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by Sections 22-69 or 22-71, the number of such spaces or bays required may be reduced by not more than 50 percent. An applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one half of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan shall show how the reserve area would be laid out in compliance with this Section. The term of a Special Permit for such reduction initially may not exceed two years, but may be granted subsequently for a longer period upon verification that the parking or loading is adequate. A Special Permit granted under this authority shall lapse upon change to a different type of use and shall not be considered to constitute any non-conformity.
- 77.2 Where the design of a parking lot or loading area differs from the design provisions of Section 22-76 provided such design complies with the intent of Section 22-76 is prepared by a professional engineer or landscape architect and provided such design is approved in writing by the Department of Public Works.
- 77.3 To allow a driveway on one lot to lead to a parking space or loading bay on another lot, or to allow a driveway to straddle the lot line and serve a parking space or a loading bay on two or more lots, both in a Commercial district, provided a binding agreement, satisfactory in form to the City Attorney, is executed and is filed in the Registry of Deeds of Worcester County. Where the driveway is located in a planned residential development for which a Special Permit with Site Plan Review (SPS) is required and the Planning Board is the SPGA, the Planning Board may grant the Special Permit for the driveway location.
- 77.4 In any commercial or industrial district, allowing required parking spaces to be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted provided: (1) all such parking spaces are within 750 feet walking distance of an entrance to the building which they serve, (2) all such spaces are for employees only and not clientele, and (3) where such lot is not in the same ownership, a lease guaranteeing long term use of such lot, and satisfactory in form to the City Counsel is executed and filed in the Registry of Deeds of Worcester County. In a BB district all such

parking spaces may be within 1200 feet walking distance of the entrance of such building if located on a lot within the BB district.

- 77.5 Where two or more activities or uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate activities or uses or if it can be demonstrated that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking lot or loading bay.

ARTICLE XII SIGN REGULATIONS

Section 22-78 Applicability

All signs shall comply with applicable requirements of the Building Code, the provisions of Sections 29-33, inclusive, of Chapter 93, and to Chapter 93D of the Massachusetts General Laws, sections 42-132 and 42-133 of this Revision and the rules and regulations of the superintendent of wires in accordance with Article 600 of the Massachusetts Electrical Code. Whenever the requirements of such regulations differ from those prescribed in this Section, the requirement that imposes the greater restriction or higher standard shall govern. No signs shall be erected, displayed, or maintained within the City, except those specifically provided for hereinafter.

Section 22-79 Permit Procedure

- 79.1 No sign, unless specifically exempted by this Section, shall be erected without a permit from the Director of Inspections, application for which shall be accompanied by the signature of the owner of the property or his agent, scale drawings, certificate of insurance as required herein and fee of three dollars. The location, type and area of all signs on the premises are to be submitted in addition to information required for the sign for which the permit is being sought. Permits shall be required for all temporary signs not located inside a building; except that a fee shall not be required for any temporary sign six feet or less in area.
- 79.2 Application for Permit. The owner or lessee of the premises on which a sign is to be erected shall file the following with the Director of Inspections:
 - 79.2.1 Application for a permit on appropriate forms furnished by the Director of Inspections including the written consent of the owner of the premises concerned or of his authorized agent.
 - 79.2.2 Full name, residence and business address of the owner of the property, of the lessee if any, and of any authorized agent to whom notices may be sent.
 - 79.2.3 Locations, position, and dimensions of sign.
 - 79.2.4 Such plans, structural drawings and specifications as the Inspector may require for temporary examination and permanent record.

Section 22-80 Signs Not Requiring Permit

- 80.1 The following signs shall be allowed by right without the necessity of a permit.
 - 80.1.1 Signs erected by or on the order of a governmental agency when limited to governmental or public safety purposes, and excluding any advertising.
 - 80.1.2 Names of buildings, date of erection, monumental citations and commemorative tablets, when made a permanent and integral part of a building, not to exceed ten (10) square feet.
 - 80.1.3 Banners or flags emblematic of or issued by national, state, or local governments.
 - 80.1.4 Signs indicating the name and address of the occupant of a residential dwelling, not to exceed two square feet. Where a permitted accessory use or occupation exists, the sign for such use shall not exceed two (2) square feet.
 - 80.1.5 Window signs, in nonresidential buildings, not to exceed twenty (20) percent of the area of the window.
 - 80.1.6 Customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof.

- 80.1.7 Clocks and thermometers displaying no information other than the time and temperature.
- 80.1.8 Holiday decorations and lights when in season.
- 80.1.9 Signs not to exceed two (2) square feet that indicate warnings, hazards, or public conveniences such as “No Trespass,” “Beware of Dog,” or rest room signs.
- 80.2 All other signs permitted in this Article require a permit from the Director of Inspections in order to be erected.

Section 22-81 General Sign Regulations

81.1 Illumination, motion and noise

- 81.1.1 Signs shall be illuminated only by steady, stationary light directed solely at the sign or internal to it, without causing glare to motorists, pedestrians or neighboring premises.
 - 81.1.2 No sign or part of any sign shall flash, move or make noise, except such portions of a sign as consists solely of indicators of time or temperature.
 - 81.1.3 No sign in RRA, RAA, RB or RC Districts shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless indicating an establishment open to the public during those hours.
 - 81.1.4 Exposed neon/gaseous tube-type signs shall not exceed twelve (12) square feet in area or have an intensity greater than one foot candle at four (4) feet from the sign.
 - 81.1.5 No sign shall be erected so as to obstruct any door, window or fire escape on a building.
 - 81.1.6 The limitations as to the number of signs permitted does not apply to traffic or directional signs that are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry, or residence. Such signs shall not carry the name of any business or project.
 - 81.1.7 No sign, except for a traffic regulatory or informational sign, shall be erected that uses the words “stop,” “caution,” or “danger,” or other similar words in such a manner as to present or imply the need or requirement or stopping or caution or the existence of danger, or which, for any reason in the opinion of the Chief of Police, is likely to be confused with any traffic regulatory or informational sign.
 - 81.1.8 No sign shall contain more than three (3) colors. No sign shall contain red or green lights if such colors would in the opinion of the Chief of Police constitute a driving hazard. The aforementioned provisions, with respect to number and type of color(s) may be waived and/or modified by the Director of Inspections upon written request and only with the concurrence of the Planning Board.
 - 81.1.9 In particular instances, the Board of Appeals may permit more than the number of signs herein permitted or signs of a maximum size other than herein specified, if it determines that the architecture of the building, the location of the building or the land or nature of the use being made of the building or land is such that additional signs or signs of a larger maximum size should be permitted in the public interest. In granting such permission, the Board of Appeals shall specify the size and location of the sign or signs and impose such other terms and restrictions as it may deem to be in the public interest and in harmony with the general purpose and intent of this Article.
- ##### 81.2 Height Regulations
- 81.2.1 No sign, together with any supporting framework, shall extend to a height above the maximum building height allowed in the district in which the sign is located. In any residential district, the top of a sign,

together with any supporting framework, shall not extend above the roof line. In any other district, the top of a sign, together with any supporting framework, shall not extend more than eight (8) feet above the roof line. In the case of a building with a pitched roof, the eaves line of the building shall be considered the roof line.

81.2.2 Within two hundred feet of centerlines of intersecting streets, the bottom of any sign shall be at least eight feet above the mean ground level.

81.3 Locations requirements

81.3.1 No freestanding sign shall be located nearer to the street line than one-half the distance of the required front yard and shall in no instance be closer than ten feet from the street line.

81.3.2 No sign shall be located in the required side or rear yard.

81.3.3 No attached sign shall project more than twelve inches out from the wall to which it is attached except in Business B Districts.

81.3.4 No sign shall be posted directly on the exterior surface of any wall but rather shall be affixed to a substantial intermediary removable surface securely affixed to the structure.

81.3.5 No sign shall be posted upon any tree, bridge, fence, guidepost, or pole used for the transmission of electricity in the City.

81.4 Area requirements

81.4.1 Signs shall conform to all applicable area requirements for the zoning district in which they are located.

81.4.2 The area of a freestanding sign shall consist of the sum total of the area of all sides except in the case of parallel back to back signs, where the area shall be computed as that of one side.

81.4.3 No sign shall devote more than fifty percent of its area to an advertisement relating to any particular product, except establishments selling one principal brand of product, such as gasoline stations and new car dealers.

Section 22-82 Off Premises Signs

Off premises signs shall be permitted only by Special Permit of the Board of Appeals, which shall assure that the sign complies with the following maximum requirements:

82.1 No such sign shall be erected or maintained in any Residence or Business A District.

82.2 No such sign shall be permitted unless at least fifty percent of the buildings for a distance of three hundred feet on both sides of a street which the sign faces are predominantly used for business, commercial or industrial uses.

82.3 No such sign shall be permitted with less than a minimum front yard setback of twenty-five feet from the line of a public way. The Board of Appeals may, however, require a setback of more than twenty-five feet.

82.4 No such sign shall be permitted that obstructs the view of vehicular traffic within a distance of two hundred feet from any point where the centerlines of public ways intersect.

82.5 No such sign shall be permitted within three hundred feet of any other visible off-premises sign, unless such sign is placed back to back with such other sign.

- 82.6 No such sign shall be permitted in an area as designated by the Board of Appeals as being of historic or scenic significance or as being such that existing signs of all types are so large or numerous that the erection of further off-premises signs would create or contribute to unsightly view from a public way, public park or reservation.
- 82.7 No such sign shall be attached to a building unless it complies with all requirements of this Article.
- 82.8 No such sign shall be permitted within three hundred feet of any church, synagogue, school, court house, public playground, hospital, public building, museum, public park or reservation or a permanently erected memorial to veterans of the armed forces.
- 82.9 No such sign shall be erected or maintained that projects more than thirty-five feet above the mean ground level directly below such sign.

In addition to the above minimum conditions, the Board of Appeals may approve a Special Permit subject to other appropriate safeguards and conditions consistent with the purpose and intent of the Zoning Ordinance and Zoning Act.

Section 22-83 Temporary Signs

- 83.1 A sign appertaining to campaigns, sales, promotions, drives or events of political, civic, philanthropic, educational or religious organizations will be permitted as follows:
- 83.1.1 Residential Districts. In the case of a political, civic, philanthropic, educational, or religious organization, one (1) temporary sign with an area not to exceed six (6) square feet shall be allowed per lot. No such sign shall be lighted.
- 83.1.2 Non-Residential Districts. Two (2) temporary signs will be allowed for any non-residential use in a non-residential district. No single sign shall exceed twenty (20) square feet in area. No such sign shall be a lighted sign.
- 83.2 Temporary shall mean a period not exceeding 90 consecutive days, unless the Director of Inspections permits an extension of the 90 day period or unless otherwise provided in this section. No temporary sign shall be displayed longer than five months, except as otherwise provided by this section.
- 83.3 Temporary signs outside a building.
- 83.3.1 Temporary signs, as allowed under subsection 85.1 may be located outside of a building, provided that any such sign shall be securely affixed to a building or a freestanding sign structure.
- 83.3.2 The Director of Inspections may issue a permit for the temporary placement of one freestanding A-frame sign, not to exceed 20 square feet in area, along the front lot line of property, provided that said sign shall be securely fastened and professional in appearance. In the event that a permit for an A-frame sign is issued for a corner lot which intersects a public way, private way or a driveway, said permit shall require that the sign shall be set back a minimum of 10 feet from the street line within twenty feet of said corner. Any permit issued under this subparagraph shall expire after six months; however, six month extensions to the permit may be granted at the discretion of the Director of Inspections. A second A-frame sign may be allowed upon the issuance of a Special Permit from the Planning Board.
- 83.4 Subdivision or construction signs. One unlighted sign, set back at least ten (10) feet from the street lot line, or one-half of the building setback distance, whichever is less, not to exceed an area of thirty-two square feet for residential property and sixty-four square feet for nonresidential property indicating parties involved in subdivision or construction on the premises; provided that it does not remain erected more than six months after the occupancy of the first structure.

- 83.5 For residential properties, one unlighted temporary sign offering premises for sale or lease for each parcel in one ownership shall be permitted provided: it shall not exceed six (6) square feet in surface area; and it shall be set back at least ten (10) feet from the street lot line or one-half of the building setback distance, whichever is less. A sign of thirty-two square feet is permitted for non-residential property pertaining to lease or sale of the premises. Real estate brokers may apply annually for permits to erect such signs throughout the City for the purposes of advertising the sale or lease of any property in the City.

Section 22-84 Signs Permitted in Residence Districts

- 84.1 No sign shall be erected or maintained in a Residence district except as provided in this section and except as hereinafter expressly provided:
- 84.1.1 For each dwelling within a residential building housing not more than two (2) families, there may be one sign displaying the name of the occupant and address of the premises permitted without a permit. Such sign shall not exceed one square foot, except where a permitted accessory use or occupation exists, it shall not exceed two (2) square feet.
- 84.1.2 For each residential building housing more than two (2) families, or in the case of a group of such buildings forming a single housing development, there may be one principal wall sign, not to exceed six (6) square feet, or one free-standing sign not to exceed six (6) square feet. In addition, there may be one secondary wall sign for each separate building in a group of such buildings that shall not exceed two (2) square feet.
- 84.1.3 There may be two (2) signs identifying churches, schools, and other institutional uses on each street frontage, one of which may not exceed twenty (20) square feet in area and one of which may not exceed ten (10) square feet in area. One sign per each street frontage may be freestanding and may be used for notices and announcements of services and events. In addition, if there are a group of buildings forming a complex or campus, there may be any number of additional signs located within the campus, not to exceed ten (10) square feet per sign.
- 84.1.4 There may be one wall sign, not to exceed twenty (20) square feet, for a valid nonconforming or permitted non-residential use. The Director of Inspections may permit one standing sign to identify a valid nonconforming or permitted non-residential use, however, such sign shall not exceed fifteen (15) square feet.
- 84.1.5 There may be signs indicating “entrance,” “exit,” “parking,” or the like, erected on the premises for the direction of persons or vehicles, not to exceed three (3) square feet per sign.
- 84.2 Regulation of Signs in Business, Commercial and Industrial districts
- 84.2.1 In Business A and B, Commercial, and Industrial districts, only those signs may be erected or maintained that are permitted without a permit in Section 22-80 which are allowed in a Residence district as provided in the previous section, or which comply with the following provisions:
- 84.2.1.1 Principal signs. Except as provided in this Section for each business establishment, there may be one principal wall sign not exceeding three (3) square feet for each foot of building frontage of the wall to which it is affixed or one hundred (100) square feet, whichever is less, except that where a business establishment is located on a corner where the frontage on the second street is at least seventy-five (75) percent of the frontage on the first street, there may be two (2) such principal wall signs. In particular instances, due to the nature of the use of the premises, the architecture of the building, or its location with reference to the street, the total allowable sign area of the principal wall sign, as specified in the formula above, may be divided between two (2) such wall signs which would together constitute the principal wall sign. Where permission is granted for a freestanding sign, said freestanding sign shall be considered the principal sign, and shall not exceed 100 square feet.
- 84.2.1.2 Secondary signs. For each separate building, entrance, or frontage on a street or parking area, there may

be one secondary wall sign not exceeding one square foot for each foot of building frontage of the wall to which it is affixed, or fifty (50) square feet, whichever is less. Secondary signs may not be erected on the same wall as a principal sign, and there may not be more than two (2) secondary signs.

- 84.3 Directory Signs. There may be one directory wall sign indicating the occupants or tenants of the building to which the sign is affixed, said sign not exceeding an area determined on the basis of one square foot for each occupant or tenant. If a building has a second entrance with frontage on a street or parking area, there may be a second directory wall sign as provided above. Such signs shall not be deemed non-accessory directory signs.
- 84.4 Marquee Signs. There may be one marquee sign for a theater.
- 84.5 Awning signs. Awning signs are permitted, provided sign lettering does not occupy more than twenty (20) percent of the awning area.
- 84.6 Window signs. Window signs not exceeding in the aggregate twenty (20) percent of the window area through which they are visible are permitted without permit.
- 84.7 Gasoline station signs. Gasoline selling and service stations may maintain product identification signs (tires, oil...) provided that said signs are consolidated in one display on the subject premises and do not exceed twenty (20) square feet in the aggregate.
- 84.8 Directional signs. Signs indicating "entrance," "exit," "parking," or the like, erected on a premises for the direction of persons or vehicles, not to exceed three (3) square feet per sign.
- 84.9 Standing signs. In particular instances, the Director of Inspections may permit standing signs, kiosks, or public information bulletin boards as provided in subsection 80.1.
- 84.10 For open-lot uses, where a calculation of aggregate sign area based on building face dimensions would result in inequitable deprivation of identification, the Board of Appeals, by Special Permit, may authorize an aggregate sign area up to but not more than one square foot in area for each linear foot of street lot lines.

Section 22-85 Dimensional Requirements for Permitted Signs

Permitted in RRA, RAA, RB, RC Districts

<u>Type of Sign</u>	<u>Maximum Square Feet per Sign</u>	<u>Number of Signs Allowed</u>	<u>Total Square Feet</u>
Single Family Identifying	2	1	2
Multi Family Principal Identifying	15	1	15
Multi Family Secondary	2	1/building	2/building
Institutional Signs	20 and 10	2	30
Nonresidential/Nonconforming			
• Wall	20	1	20
• Standing	15	1	15
Directory Signs	3	-	3/sign

Permitted in BA, BB, C, I Districts

<u>Type of Sign</u>	<u>Maximum Square Feet per Sign</u>	<u>Number of Signs Allowed</u>	<u>Total Square Feet</u>
All permitted residential signs			
Business Principal			
• Wall	up to 100 s.f.	1	100

• Freestanding	up to 100 s.f.	1	100
Business Secondary	up to 50 s.f.	2	100
Directory Signs	3	-	3/sign

Section 22-86 Nonconforming Signs

Nonconforming Signs

- 86.1 Signs legally erected before November 11, 1974, that do not conform to the provisions of this Article may remain erected; provided, however, that no such sign shall be permitted if it is, after November 11, 1974, enlarged, redesigned or altered in any way, except to conform to the requirements of this Article.
- 86.2 Nonconforming signs that have deteriorated or are damaged by an act of God, vandalism or accident to such an extent that the cost of restoration exceeds fifty percent of the replacement cost of the sign at the time of restoration shall not be repaired or rebuilt or altered, except to conform to the requirements of this Article.
- 86.3 When the use of a building or part of a building changes and a nonconforming sign advertising that use, then the signs advertising the new use shall be erected to conform to the requirements of this Article.

Section 22-87 Construction and Maintenance

All signs shall be maintained by the owner of the property on which the sign is located in a safe, clean, sanitary and inoffensive condition and all freestanding signs shall be kept free and clear of all obnoxious substances, rubbish and weeds. All signs requiring permanent insurance shall be inspected every two years to assure their structural integrity. The owner of the property on which any sign is located shall cause this inspection by a sign installer and shall submit the results of such inspection to the Director of Inspections.

Section 22-88 Sign Removal

The owner of the property on which the sign is located shall be responsible for the removal of any sign in violation of this Article within twenty-four hours of the issuance of a notice of violation by the Director of Inspections.

Section 22-89 Exceptions

In particular instances, the Zoning Board of Appeals may, in accordance with the procedures provided in Section 22-13, grant a Special Permit to allow standing signs and exceptions to the limitations imposed by this section on the number, size, location and height of signs if it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street is such that standing signs or exceptions should be permitted in the public interest. In granting such a permit, the Board shall specify the size, type and location and shall impose such other terms and restrictions as it may deem to be in the public interest and in accordance with the building code, provided that, except as further limited in Building Code 780 CMR Chapter 31 Section 3102 through 3102.14, any such standing sign shall not exceed thirty-five (35) square feet in area, or ten (10) feet in any linear dimensions, or sixteen (16) feet in height from the ground. Where a single lot is occupied by more than one establishment, whether in the same structure or not, there shall not be more than one freestanding sign for each lot, except that if a lot has frontage on more than one street, there may be a freestanding sign for each street frontage.

In granting such permit, the Board shall specify the size, type and location of any such sign and shall impose such other forms and restrictions as it may deem to be in the public interest, and in accordance with the building code.

ARTICLE XIII HEALTH CARE OVERLAY DISTRICT

Section 22-90 Purpose

The purpose of this Article XIII is to facilitate the use and development of health care and related activities in designated suitable areas in the City of Leominster so as to achieve development of a nature that represents the best use of the land in relation to, and with minimal adverse impacts on, the City's neighborhoods, on the health, safety and welfare of the City's inhabitants, and on the City's infrastructure, services and public safety facilities. It is also the purpose of this Article XIII to permit the City's health care service providers sufficient flexibility to use, develop and alter their facilities to respond to changes in the nature of, and the demand for, health care services, in order to assure that the City and its inhabitants continue to benefit from the provision of up-to-date health services by health care providers based in the City. This Article XIII provides for the use of property for certain health care and related uses as of right in a district designated as a Health Care Overlay District and provides for Site Plan review, on objective criteria, for such uses in such districts if the development exceeds a specified area or occurs outside a designated Development Envelope, in order to assure compatibility of such developments with the surrounding neighborhood while allowing flexibility to the health care service provider to develop its facilities.

Section 22-91 General Provisions

- 91.1 General. In a Health Care (HC) Overlay District, health care and related uses are permitted as set forth in Section 22-95, provided, in the case of new construction or alterations outside the Development Envelope (as such term is defined in Section 22-4) or in excess of the Development Limit (as such term is defined in Section 22-4), the Planning Board issues Site Plan Approval for the development under Section 22-96 and the development is constructed and operated in conformity with the approved Site Plan and the conditions imposed by the Planning Board.
- 91.2 Applicable Provisions. In order to impose use, dimensional, parking, signage and Site Plan controls consistent with the complexity of the design, development and operation of uses of the nature permitted in an HC Overlay District, the permitted uses and dimension limitations, the design standards for parking and loading facilities and signage, and the Site Plan Approval procedures in an HC Overlay District shall be governed exclusively by the provisions of this Article XIII. However, except as otherwise provided in this Article XIII, the definitions set forth in Section 22-4 shall apply.

Section 22-92 Dimensional Requirements

- 92.1 General Requirements. A building or structure may be built on any lot located in an HC Overlay District for any use permitted under Section 22-95, subject to the following requirements:
- 92.1.1 Any such building must be located so as to comply with the dimensional requirements set forth in subsection 92.2.
- 92.1.2 The lot must comply with the dimensional requirements set forth in subsection 92.2.
- 92.1.3 No lot on which a building is located shall be reduced or changed in size or shape so that such lot fails to comply with the dimensional requirements set forth in subsection 92.2, except for any non-compliance resulting from the exercise of the power of eminent domain or the conveyance by the owner of the lot of a portion thereof for a public purpose.
- 92.1.4 Notwithstanding any contrary provision of this Article XIII, domes, skylights, roof vaults, elevator and mechanical penthouses, stair towers, steeples, radio towers, chimneys, broadcasting and television antennas, bulkheads, cooling towers, pump houses, water towers, ventilators, exhaust towers, light poles, satellite dishes and other appurtenances connected to the principal structure and usually carried above the roof may have a maximum height of twenty-five (25) feet above the roofline, subject to applicable conditions and/or limitations imposed by the Federal Aviation Administration.

92.2 Dimensional Requirements. The following requirements shall apply to buildings in an HC Overlay District:

Minimum Lot Width:	None
Minimum Lot Area:	15 Acres
Minimum Lot Frontage:	50 feet

Minimum Front, Side and Rear Yard:

<u>Maximum Height</u>	<u>Minimum Yard</u>		
	Front	Side	Rear
2-1/2 stories or 35 feet	20 feet	15 feet	30 feet
4-1/2 stories or 63 feet	35 feet	30 feet	40 feet
5 stories or 98 feet	50 feet	50 feet	50 feet

Maximum Height: The greater of 7 stories or 98 feet (subject to exclusions set forth in subsection 92.1.4

92.3 Minimum Set-Back from Development Envelope for Health Care Uses. Notwithstanding any contrary provision of this Article XIII, no building used for any Health Care Use shall be located less than 15 ft. from the Development Envelope. The provisions of this subsection 92.3 shall not apply to any building or structure used for a purpose accessory to a Health Care Use.

Section 22-93 Parking and Loading Requirements

93.1 General Requirements. A building may be built on any lot located in an HC Overlay District for any use permitted under Section 22-95, provided that the requirements of this Section 22-93 are complied with.

93.2 Number of Parking Spaces. The number of parking spaces indicated for the corresponding types of uses shall be provided for uses in an HC Overlay District:

Type of Use	Minimum Number of Parking Spaces to be Provided
Hospital	1.1 per employee working at the location of such use during maximum daily shift + 1 per bed
Medical Laboratory	1 per 500 net square feet
Medical Office	1 per 500 net square feet
Nursing or Convalescent Home:	
• Independent Living, assisted living facility, retirement facility, congregate living facility	1.1 per employee working at the location of such use during maximum daily shift + 1 per each 2 bedrooms
• All others	1.1 per employee working at the location of such use during maximum daily shift + 1 per 4 beds
Out-Patient Clinic	1 per 400 net square feet
Pharmacy	1 per 500 net square feet
All other uses	As required by subsection 70.1

93.3 Rules for Interpretation of Subsection 93.2. The rules for interpretation subsection 93.2 shall be as set forth in Section 22-70.

93.4 Number of Off-Street Loading Bays. The number of off-street loading bays indicated for the corresponding types of uses shall be provided, except as otherwise indicated:

Uses	Maximum Number of Loading Bays to be Provided
Hospital	1 for each 50,000 net square feet, but not more than 3
Medical Laboratory	None
Medical Office	None
Nursing or Convalescent Home:	
• Independent living facility, continuing care retirement facility, congregate living facility	1 for each 50,000 net square feet, but not more than 3
• All others	1 per 200 beds
Out-Patient Clinic	None
Pharmacy	None
All other uses	As required by subsection 71.1
93.5	Parking Spaces for Handicapped Persons. Specially designated parking spaces for the physically handicapped (all of which shall be included in the number of parking spaces required under subsection 93.2) shall be provided as set forth in Section 22-72.
93.6	Location of Off-Street Parking, Loading Bays.
93.6.1	Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except that parking spaces may be provided on a separate lot as provided in subsection 93.6.2.
93.6.2	Required parking spaces may be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted, provided: (1) all such parking spaces are within five hundred (500) feet walking distance of the boundary of the Health Care Overlay District that they serve or within one thousand five hundred (1,500) feet of such boundary, if public or private bus or shuttle transportation is available between such parking spaces and the Health Care Overlay District which they serve; (2) no pedestrian shall be required to cross a public way at grade to reach the building from the parking spaces; and (3) where such lot is not in the same ownership, a lease (or other binding legal agreement) guaranteeing a minimum of twenty (20) years use of such lot is executed and a notice thereof filed in the Worcester County (Northern District) Registry of Deeds. If the parking area is located in a zoning district in which the principal use it will serve is permitted only by Special Permit, such parking area shall be permitted only by Special Permit granted by the Planning Board in accordance with the standards set forth in Section 22-13 and subsection 67.1, in accordance with the procedure set forth in subsection 96.6.

- 93.6.3 No area may be utilized and counted as both a required parking space and a required loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each.
- 93.6.4 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a building or structure.
- 93.7 Driveways.
- 93.7.1 Each parking space and loading bay shall be connected by a driveway to a public street or to private way that leads to a public street. A driveway on one lot may (1) lead to a parking space or loading bay on another lot; (2) be located partly on another lot; or (3) straddle a lot line; provided that (A) the parking spaces or loading bays so served, or a portion of such driveway, is located in a zoning district in which the principal use served thereby is permitted; and (B) a binding easement or other appropriate agreement is entitling the owner of such principal use to use such driveway, parking spaces or loading bays is executed and recorded in the Worcester County (Northern District) Registry of Deeds and/or filed with the Worcester County (Northern District) Registry District of the Land Court.
- 93.7.2 The number and locations of driveways permitting entrance to and exit from a lot in an HC Overlay District shall be limited to those required, or not prohibited, by the Massachusetts Highway Department or the City of Leominster Department of Public Works.
- 93.8 Design Standards.
- 93.8.1 Dimensions. The dimensions for required parking spaces, driveways and maneuvering aisles shall be as set forth in subsection 76.2, except that:
- 93.8.1.1 The maximum width of a driveway for two-way use, as measured at the setback line, as set forth in subsection 76.2.4, shall not be applicable; and
- 93.8.1.2 Where access or egress is provided for a parking lot of five (5) or more spaces or for one (1) or more loading bays, no vehicle shall have to stand within a public street right-of-way waiting to enter the lot or loading bay except as permitted, or not prohibited, by the Massachusetts Highway Department or the City of Leominster Department of Public Works.
- 93.8.2 Number of Compact Car Spaces. Not more than thirty-three percent (33%) of the parking spaces in any parking lot may be designated for use by compact cars. Such compact car spaces may be located in one or more contiguous areas, or may be inter-mixed with spaces designed for standard cars. Such compact car spaces shall be clearly designated by signs or pavement marking.
- 93.8.3 Loading Bays. All required loading bays shall have minimum dimensions as follows: thirty (30) feet long, ten (10) feet wide and twelve (12) feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Director of Inspections requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles and trailers.
- 93.8.4 Marking. In a parking lot or loading area, the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent.
- 93.8.5 Availability Snow Storage. To insure the availability and utilization of required parking spaces and loading bays on a year-round basis:
- 93.8.5.1 No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment.

- 93.8.5.2 A strip of land not less than five (5) feet in width shall be provided on at least two (2) sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area. Such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.
- 93.8.5.3 Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space or bay without requiring the moving of any other vehicle or bypassing over any other space or bay.
- 93.8.5.4 Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically designated and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so designated.
- 93.8.6 Surfacing Drainage. All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no material surface water shall drain into any public way (except as permitted under Site Plan review) or onto any lot in other ownership (except as permitted by the owner of such lot).
- 93.8.7 Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be ten percent (10%). The maximum grade of any outdoor driveway shall be fifteen percent (15%).
- 93.8.8 Landscaping. Outdoor parking lots shall be landscaped as follows:
- 93.8.8.1 On at least three (3) sides of the perimeter of an outdoor parking lot containing twenty (20) or more parking spaces, there shall be planted at least one (1) tree for every five (5) parking spaces abutting the perimeter. Such trees shall generally be located such that all required trees are no further than forty (40) feet from the nearest edge of the parking area. For purposes of this subsection 93.8.8, "parking area" shall include any driveways, interior drives, access drives or ring roads. No tree shall be required to be located in such a manner as to impair the sight lines of pedestrians or motorists at any driveway intersection or point of ingress or egress.
- 93.8.8.2 In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of ten (10) or more parking spaces face each other trees shall be located in planting areas either between or at the ends of the rows of parking spaces. There shall be planted in each planting area at least three (3) trees and in all such planting areas not less than one (1) tree for every ten (10) parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than thirty (30) feet from a tree. Trees required by this subsection 93.8.8.2 may be provided in moveable planters, rather than being permanently planted in the ground.
- 93.8.8.3 Trees required by this subsection 93.8.8 shall be at least two (2) inches diameter at a height four (4) feet above the ground at time of planting, shall be not less than six (6) feet tall, and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and, if they meet the dimensional requirements of this subsection 93.8.8.3, shall satisfy the requirements of this subsection 93.8.8.
- 93.8.9 Only parking lots constructed after the date of the first public hearing on this Article XIII, or portions of parking lots existing as of such date but substantially reconstructed thereafter, shall be required to comply with the provisions of subsection 93.8.8.

Section-22-94 Signs

- 94.1 Applicability. The sign regulations applicable to the underlying zoning district pursuant to Article XII shall apply to all uses in an HC Overlay District except as set forth in this Section 22-94. The Planning Board may grant relief from the location of signs in accordance with the standards set forth in subsection 81.1.9.
- 94.2 Signs Not Requiring a Permit. In addition to those signs not requiring a permit pursuant to subsection 82.1, signs on the interior of any building, flagpoles and lightpoles shall not require a permit (provided that all such interior signs, flagpoles and light poles must be constructed and erected pursuant to applicable state building, fire and electrical codes).
- 94.3 Permitted Signs. In addition to other permitted signs, the following signs shall be permitted as of right in an HC Overlay District:
- 94.3.1 Wall signs shall be permitted on the exterior walls of buildings in an HC Overlay District to indicate the business names of the owners and occupants of the HC Overlay District (and of the principal services and/or providers therein), provided the aggregate surface area of all exterior wall signs does not exceed:
- 94.3.1.1 ten percent (10%) of the surface area of all exterior building walls; and
- 94.3.1.2 fifteen percent (15%) of any one exterior wall.
- 94.3.2 Monument signs - (i.e., signs that are built into the ground and integrated into the surrounding landscape) shall be permitted, provided that no such sign shall exceed ten (10) feet in height or twenty (20) feet in length.
- 94.3.3 Construction signs - shall be permitted for the duration of construction.

Section 22-95 Use Regulations

- 95.1 Permitted Uses. In all portions of the City indicated on the Zoning Map as an HC Overlay District:
- 95.1.1 All permitted uses shall be subject to the appropriate provisions of subsections 16.1, 16.3, 16.5, 16.8 and Section 22-92 and, insofar as a building or structure is to be constructed within the Floodplain District or the Water Supply Protection District to the appropriate provisions of Article V or Article VI, respectively. Sand, gravel or loam removal in connection with the construction or renovation of any building or structure shall be permitted, subject to the applicable provisions of City Ordinances other than this Article XIII.
- 95.1.2 The following uses of land, buildings and structures are permitted, provided that, insofar as they are to be located within the Flood Plain District or the Water Supply Protection District, all uses comply with the provisions of Articles V and VI respectively of this Article XIII:
- 95.1.2.1 All uses permitted under the applicable provisions of Article V or Article VI of this Ordinance.
- 95.1.2.2 All uses permitted in the underlying zoning district.
- 95.1.2.3 Hospital.
- 95.1.2.4 Medical Laboratory.
- 95.1.2.5 Medical Office.
- 95.1.2.6 Nursing or Convalescent Home.
- 95.1.2.7 Out-Patient Clinic.

95.1.2.8 Pharmacy.

95.1.3 The following uses of land, buildings and structures are permitted upon issuance of a Special Permit by the Planning Board provided the Planning Board finds that such use is not objectionable to the residents or occupants of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration and that the use is not contrary to the general welfare, safety, health and morals of the inhabitants of the City.

95.1.3.1 All uses, other than those specified in subsections 95.1.2.1 to 95.1.2.8 inclusive, permitted by Special Permit in the underlying zoning district.

95.1.4 All other uses of land, buildings and structures not otherwise prohibited by this Ordinance shall be permitted upon issuance of a Special Permit from the City Council upon a finding by the City Council that such use is similar in character to the uses permitted under the subsections 95.1.2 and 95.1.3 and similar in effect on immediately abutting property, provided that the use is not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration; and provided, further, that the use is not contrary to the general welfare, safety, health and morals of the City.

95.1.5 Insofar as construction requiring a Special Permit under this Section 22-95 is to occur within the Water Supply Protection District, all of the standards specified in subsection 41.6 and Section 22-42 shall apply.

95.2 Accessory Uses. Uses customarily incidental to any principal use permitted under this Section 22-95 shall be permitted as accessory uses in an HC Overlay District.

Section 22-96 Designation of Development Envelope; Site Plan Approval; Authority of the Planning Board

96.1 General Purpose. The general purpose of this Section 22-96 is as set forth in Section 22-49 and to accomplish the purposes set forth in Section 22-90.

96.2 Designation of Development Envelope and Development Limit. Upon or at any time after the designation of an HC Overlay District, one or more Development Envelopes for such HC Overlay District shall be designated by the City Council. Until the City Council designates at least one (1) Development Envelope for a particular HC Overlay District, the Development Envelope shall be deemed to include the entire HC Overlay District.

Upon designation of a Development Envelope for any HC Overlay District, the City Council shall also specify the Development Limit. Buildings, structures and improvements existing within such designated Development Envelope at the time of such designation shall not be included in the Development Limit.

96.3 Site Plan Approval for Construction Development Envelope. No Site Plan Approval shall be required for the renovation, rehabilitation, repair or replacement of any building, structure or other improvement existing within a designated Development Envelope at the time of designation of such Development Envelope or constructed thereafter in accordance with the provisions of this Article XIII. For purposes of this subsection 96.3, "replacement" shall mean the construction of a new building, structure or other improvement that is not substantially higher than, and that is substantially contained within the footprint of, the building, structure or improvement it replaces, so long as such renovation, rehabilitation, repair or replacement does not create any greater nonconformity with the requirements of this Article XIII than existed prior to such renovation, rehabilitation, repair or replacement.

Notwithstanding any contrary provision of this Article XIII, no building permit shall be issued for construction of any new building or any new addition to an existing building to be used for a Health Care Use within a designated Development Envelope after the date of such designation which, when the net floor area of such new building or addition is added to the net floor area of all new buildings and additions used for a principal Health Care Use constructed within the Development Envelope after the date of such designation, would cause the aggregate net floor area of all new buildings and additions used for principal Health Care Uses constructed within the Development

Envelope after the date of such designation to exceed the Development Limit, unless Site Plan Approval shall have been granted for such new building or addition by the Planning Board pursuant to this Section 22-96. The area of any building, structure or improvement used for an accessory use shall not be included in the computation described in this subsection 96.3, and shall not require Site Plan Approval hereunder.

- 96.4 Special Permit and Site Plan Approval for Construction Outside Development Envelope. Except as otherwise specifically provided in this subsection 96.4, no new building, structure or other improvement shall be constructed outside a designated Development Envelope unless (i) a Special Permit for such new, building, structure or other improvement shall have been issued by the Special Permit Granting Authority pursuant to this Section 22-96; and (ii) Site Plan Approval for such new building, structure or other improvement shall have been granted by the Planning Board pursuant to this Section 22-96. Notwithstanding the foregoing, no Special Permit or Site Plan Approval shall be required for the use, maintenance, repair or replacement of any roadway, driveway, retention basin or detention basin located entirely or partially outside a designated Development Envelope if such roadway, driveway, retention basin or detention basin was in existence as of the effective date of this Article XIII. For purposes of this Section 22-96, the Special Permit Granting Authority shall be the City Council.
- 96.5 Application for Special Permit. Applications for Special Permits pursuant to this Section 22-96 shall be reviewed as provided in Section 22-13.
- 96.6 Application for Site Plan Approval. Applications for Site Plan Approval pursuant to this Section 22-96 shall be submitted as provided in Section 22-50.
- 96.7 Procedure for Site Plan Review.
- 96.7.1 Said Site Plan shall be prepared as provided in subsection 51.1.
- 96.7.2 Period of Review -- The period of review for Site Plan Approval shall be as follows:
- 96.7.2.1 Within seven (7) days of receipt of a complete application, the Planning Department shall forward copies of the Site Plan to all departments and boards deemed relevant by the Planning Board.
- 96.7.2.2 Within sixty-five (65) days of submission, the Planning Board shall hold a public informational meeting on the application.
- 96.7.2.3 Within ninety (90) days of the informational meeting, the Planning Board shall act on the application. Failure of the Planning Board to so act shall be treated as the approval of the Site Plan without conditions other than compliance with the site design standards specified in subsections 96.8.1 to 96.8.4 inclusive.
- 96.8 Site Design Standards. The purpose of the following site design standards is to ensure that adequate consideration is given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, public convenience and safety, particularly with regard to abutters, and the suitability of a proposed use on a site. Before the granting of any Site Plan Approval, the Planning Board shall assure that each Site Plan submitted for review shall comply in full with the following site design standards:
- 96.8.1 Storm Water Runoff - For any lot containing eighty thousand (80,000) sq. ft. of land area or more, the peak rate of storm water runoff, including sudden snow melt, to the drainage areas shall not exceed the rate existing prior to the new construction based on a ten (10) year design storm. The applicant shall provide the analysis, certified by a Massachusetts registered civil engineer, necessary to document the previous and proposed run-off rates. The Planning Board may authorize the use of storm water drainage facilities located off the lot and designed to serve one or more lots provided it finds that:

- 96.8.1.1 The peak rate of storm water runoff from such off-site facilities does not exceed the rate existing prior to the new construction based on a twenty-five (25) year design storm; and
- 96.8.1.2 The applicant has retained the rights and powers necessary to assure that the off-site storm water drainage facilities will be properly maintained in good working order.
- 96.8.2 Outdoor Lighting - In the area of new construction, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to prevent glare and light spilling over to neighboring properties in accordance with this subsection 96.8.2. Except for low-level intensity pedestrian lighting with a height of less than eight feet, all outdoor lighting shall be designed and located so that:
- 96.8.2.1 the luminaire has an angle of cutoff (as measured from the fixture down to the ground) equal to or less than 76 degrees; and
- 96.8.2.2 a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the HC Overlay District.
- 96.8.3 Common Driveway in an HC Overlay District -The Planning Board may permit a common driveway to serve two (2) or more principal uses located in an HC Overlay District, notwithstanding that the principal uses in such HC Overlay District are different.
- 96.8.4 Reserve Parking Spaces -- In granting Site Plan Approval, the Planning Board may authorize a decrease in the number of parking spaces as follows:
- 96.8.4.1 Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by Section 22-93, the Planning Board may reduce the number of such spaces or bays required by not more than thirty percent (30%). The applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one-half (1/2) of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan shall show how the reserve area would be laid out in compliance with this Section.
- 96.8.4.2 If after one (1) year after the Certificate of Occupancy is issued for the building or use, the Planning Board determines that additional parking spaces are needed, it may require that all or any portion of the spaces shown on the approved Site Plan as "Reserve Parking" be constructed.
- 96.8.4.3 Where two or more uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate uses or if it can be reasonably demonstrated to the Planning Board that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses served by the parking lot or loading bay.
- 96.9 Modification to Approved Site Plan. Any significant change as determined by the Planning Board Staff, from the approved Site Plan shall require approval of the Planning Board. This approval shall be based only on the proposed modification and not the entire Site Plan. For purposes of this Section 22-96, change in a previously approved Site Plan to relocate or otherwise modify one or more buildings, structures, parking lots, loading bays, exterior lamps or landscaping features shown on the previously approved Site Plan shall not be deemed to be a significant change if such revised Site Plan complies with the requirements of subsection 96.8 and such relocation or modification does not materially adversely affect the natural resources and characteristics of the site, its topographic, hydrologic and geologic conditions, public convenience and safety, or the suitability of the proposed use on the site. Any change in a previously approved Site Plan that is determined by the Planning Board Staff not to be a significant change shall be reviewed and approved by the Planning Board Staff in accordance with the standards set forth in subsection 96.8. Any change in a previously approved Site Plan that is determined by the Planning Board

Staff not to be a significant change and is approved by the Planning Board Staff pursuant to this subsection 96.9 shall be deemed to be permitted by the Special Permit issued with respect thereto pursuant to this Section 22-96, without any further action by the Special Permit Granting Authority.

- 96.10 Exceptions (Dimensional Requirements). In accordance with the provisions of subsections 13.3 and 13.4, the Planning Board shall have the authority to grant relief from the requirements of subsection 92.2, Section 22-93, and subsection 96.8 by granting Site Plan Approval that varies the dimensional requirements by up to a maximum of twenty percent (20%) (or, in the case of relief from the requirements of Section 22-93, that varies the applicable requirements as permitted by subsections 77.1 and 77.5 where the Planning Board finds that (a) the distinctive nature of the architecture of the building(s), the location of the building(s) or the land, or the nature of use being made of the building(s) or the land is such that relief should be granted in the public interest; or (b) in the case of relief from the requirements of Section 22-93, the applicable requirements of subsections 77.1, 77.2, and 77.5 have been met. In granting such relief, the Planning Board shall specify the extent of the relief granted and may impose such restrictions and conditions related to such relief as it deems to be in the public interest and as are in harmony with the general purpose and intent of this Article XIII.

ARTICLE XIV WIRELESS COMMUNICATIONS FACILITIES

In addition to the general conditions and procedures established in this Ordinance for all Special Permits, the following additional requirements and procedures shall apply.

Section 22-97 Purpose

The purpose of this section is to establish an Ordinance by which wireless communication may be provided with minimal harm to the public health, safety, and general welfare. Specifically, the Wireless Communications Facilities Ordinance has been created to (a) protect the general public from hazards of structural failure associated with wireless communications facilities and (b) minimize visual impacts from wireless communications facilities on residential districts within Leominster. This section does not apply to satellite dishes and antennas for residential use.

Section 22-98 Use Restrictions

- 98.1 Wireless Communications Facilities shall be allowed in all zoning districts with a Special Permit from the Special Permit Granting Authority unless otherwise noted in this Ordinance.
- 98.2 When properly camouflaged, side-mounted, roof-mounted, structure-mounted and interior-mounted Wireless Communications Facilities shall require only a building permit.
- 98.3 The co-location of a new Wireless Communications Facility on any existing guyed tower, lattice tower, or monopole shall require only a building permit, provided that the installation of the new Wireless Communications Facility does not increase the height of the existing structure nor the size of the existing secured area at the base of the facility where the equipment cabinet/shelters are located.

Section 22-99 Location

- 99.1 The applicant shall submit documentation of the legal right to install and/or use the proposed Wireless Communications Facility mount at the time of application for a building permit and/or Special Permit.
- 99.2 If feasible, Wireless Communications Facilities shall be located on existing structures, including, but not limited to buildings, water towers, existing Wireless Communications Facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more Wireless Communications Facilities. The applicant for a special permit under Section 22-102 shall have the burden of proving that there are no feasible existing structures upon which to locate.
- 99.3 If the applicant for a Special Permit demonstrates that it is not feasible to locate on an existing structure, the Wireless Communications Facility shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to: disguising the facilities to look like other structures (i.e., flagpoles, trees, etc.), the use of compatible building materials and colors, screening, landscaping, and placement within clusters of trees.

Section 22-100 Dimensional Requirements

Wireless Communications Facilities shall comply with the following requirements:

- 100.1 Height, Roof-Mounted Facilities: Roof-mounted Wireless Communications Facilities shall not project more than ten (10) feet above the height of the existing building upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a building that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing building height.

- 100.2 Height, Structure-Mounted Facilities: Structure-mounted Wireless Communications Facilities shall not project more than ten (10) feet above the height of the existing structure upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a structure that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing structure height.
- 100.3 Height, Side-Mounted Facilities: Side-mounted Wireless Communications Facilities shall not project above the height of the existing building or structure upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a building or structure that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing building or structure height.
- 100.4 Height, Interior-Mounted Facilities: Interior-mounted Wireless Communications Facilities shall not exceed the height of the building or structure upon which the Wireless Communications Facility is proposed to be located and shall be completely camouflaged such as within a flagpole, steeple, chimney or similar structure.
- 100.5 Height, Ground-Mounted Facilities: The Special Permit Granting Authority shall have the authority to authorize the height of a ground-mounted Wireless Communication Facility to exceed the applicable height limits under Article III, provided, however, that it may not authorize a height in excess of 190 feet.
- 100.6 Setbacks: All Wireless Communications Facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the Wireless Communications Facilities are located.
- 100.7 Fall Zone: In order to ensure public safety, the minimum distance from the base of any ground-mounted Wireless Communications Facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the Wireless Communications Facility including any antennas or other appurtenances.

Section 22-101 Performance Standards

All Wireless Communications Facilities shall comply with the following Performance Standards set forth in this section:

101.1 Design Standards

101.1.1 Visibility/Camouflage: Wireless Communications Facilities shall be camouflaged as follows:

101.1.1.1 Camouflage by Existing Buildings:

101.1.1.1.1 When a Wireless Communications Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the Wireless Communications Facility within or behind existing architectural features to limit its visibility from adjoining ways. Wireless Communications Facilities mounted on a roof shall be stepped back from the front façade to limit their impact on the building's silhouette.

101.1.1.1.2 Wireless Communications Facilities that are side-mounted shall blend with the architecture of the existing building and shall be painted or shielded with material that is consistent with the design features and materials of the building.

101.1.1.2 Camouflage by Vegetation: All ground-mounted Wireless Communications Facilities and equipment shelters shall be surrounded by buffers of tree growth and under story vegetation in all directions to create an effective visual buffer at the street level. Ground-mounted Wireless Communications

Facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the Wireless Communications Facilities at the street level. Trees and vegetation may be existing on the subject property or installed as part of the proposed Wireless Communications Facility or a combination of both. The Special Permit Granting Authority shall determine the types of trees and plant materials, depth, and overall appropriate design of the needed buffer on site conditions.

101.1.1.3 Color:

101.1.1.3.1 Wireless Communications Facilities that are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

101.1.1.3.2 To the extent that any Wireless Communications Facility extends above the height of the vegetation immediately surrounding it, it shall be appropriately camouflaged.

101.1.2 Equipment Shelters: Equipment shelters for Wireless Communications Facilities shall be designed consistent with one of the following design standards:

101.1.2.1 Equipment shelters shall be located in underground vaults; or

101.1.2.2 Equipment shelters shall be designed in accordance with architectural styles and materials reflective of the uses within a three hundred (300) foot radius of the location acceptable to the Special Permit Granting Authority; or

101.1.2.3 Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, cabinets, or wooden fence. The Special Permit Granting Authority shall determine the style of the fencing and/or landscape buffer that is compatible with the neighborhood.

101.1.3 Lighting & Signage

101.1.3.1 Wireless Communications Facilities shall be lighted only if required by the Federal Aviation Administration. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.

101.1.3.2 Signs shall be limited to a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis, a no trespassing sign, a sign displaying the FCC registration number and, any signs required to warn of danger. All signs shall comply with the requirements of the Leominster Zoning Ordinance.

101.1.3.3 All ground-mounted Wireless Communications Facilities shall be surrounded by a security barrier of a design and material acceptable to the Special Permit Granting Authority.

101.1.4 Historic Buildings & Districts

101.1.4.1 All Wireless Communications Facilities proposed to be located within an historic district or on an historic structure must be reviewed by the Leominster Historical Commission.

101.1.4.2 Any Wireless Communications Facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

101.1.4.3 Any alteration made to an historic structure to accommodate a Wireless Communications Facility shall be fully reversible.

101.1.4.4 Wireless Communications Facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from adjoining ways and viewing areas within the district.

101.2 Environmental Standards

101.2.1 Wireless Communications Facilities shall be setback from designated wetlands and waterbodies. Conservation Commission review and approval may be necessary.

101.2.2 No hazardous waste shall be discharged on the site of any Wireless Communications Facility.

101.2.3 Stormwater run-off shall be contained on-site or adequately disposed of off-site via connection to an existing stormwater drainage system.

101.3 Safety Standards

101.3.1 All equipment proposed for a Wireless Communications Facility shall comply with the Federal Communications Commission Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) and shall be maintained so as to remain in compliance with such guidelines as they may be amended.

Section 22-102 Special Permits

102.1 The Special Permit Granting Authority for Wireless Communications Facilities shall be the Planning Board.

102.2 The Special Permit Granting Authority shall have the authority to hire a consultant to review any proposed Wireless Communications Facility submission at the expense of the applicant.

102.3 Application Filing Requirements: In accordance with this Ordinance, the location of a Wireless Communications Facility which is not in conformance with subsection 98.1 or 98.2 will require a Special Permit from the Planning Board. An application for a Special Permit shall be filed in accordance with Article I and shall be accompanied by seven (7) copies of the following information:

102.3.1 Before a Special Permit for any new Wireless Communications Facility is approved, the applicant must demonstrate that it is not feasible to locate their antenna and facilities on an existing Wireless Communications Facility, structure or building. Before a Special Permit for a new Wireless Communications Facility in a residential district is approved, the applicant must also demonstrate that it is not feasible to locate their antenna and facilities in other districts or on municipal facilities. Such demonstration studies shall include a summary of propagation studies and a plan for any network of facilities.

102.3.2 Details of the Wireless Communications Facility, guy wires and anchors (if any), lighting, and all structures located within 300 feet of the Wireless Communications Facility.

102.3.3 Location of alternate sites, if any.

102.3.4 Color photographs, computer simulation or renditions illustrating the proposed Wireless Communications Facility with its antenna and/or panels or dishes and its location. The Planning Board may require additional visual analysis such as, among other items, enhanced landscaping plans and line-of-site drawings.

102.3.5 Within thirty days after filing the application for any new Wireless Communications Facility or extension in height thereto, if requested by the Planning Board, the applicant shall arrange to fly a balloon at the site

at the maximum height of the proposed installation. The balloon shall be of a size and color that can be seen from every direction for a distance of one (1) mile.

102.3.6 A certification that the applicant possesses all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.

102.3.7 Reports prepared by one or more registered professional engineers, which shall:

102.3.7.1 Demonstrate that the Wireless Communications Facility complies with all applicable standards of the Federal and State governments; and

102.3.7.2 Describe the capacity of the Wireless Communications Facility including the number and type of transmitting and receiving antennas that it can accommodate and the basis for the calculation of capacity; and

102.3.7.3 Demonstrate that the Wireless Communications Facility and site comply with this regulation; and

102.3.7.4 Describe the auxiliary power source, if any.

102.3.8 A copy of the FCC registration, FCC license, and FAA opinion letter or registration for the proposed Wireless Communications Facility and applicant.

102.3.9 For facilities proposed on municipally owned land or structures, evidence of contractual authorization from the City of Leominster to conduct wireless communications on municipally owned property.

102.3.10 File an approval letter from the Massachusetts Department of Public Health confirming that the proposed filing meets the requirements of Massachusetts Department of Public Health regulation 105 CMR 122.000 for Wireless Communications Facilities with respect to emissions.

Section 22-103 Approval

A Special Permit shall be granted by the Special Permit Granting Authority in accordance with the Massachusetts General Law and Article I of this Ordinance. Any extension of height or replacement of a Wireless Communications Facility shall be subject to a new application or an amendment to the Special Permit.

Section 22-104 Conditions of Use

104.1 The Wireless Communications Facility and its transmissions shall comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter.

104.2 All Wireless Communications Facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies and power levels, and the applicant shall provide certification that the allowable frequencies are not deviated from, and power levels will not be exceeded. Certification shall include technical specifications, an explanation of those specifications, and, if necessary, field verification.

104.3 All unused Wireless Communications Facilities or parts thereof or accessory facilities and structures which have not been used for one (1) year shall be dismantled and removed at the owner's expense.

104.4 All Wireless Communications Facilities shall be maintained in good order and repair. Any paint and finish must be annually maintained and repaired when the blemishes are visible from the property line. Annual inspection and maintenance reports for the Wireless Communications Facility and site shall be filed with the Director of Inspections and, when applicable, the Special Permit Granting Authority.

Section 22-105 Performance Guarantees

- 105.1 Insurance in a reasonable amount determined and approved by the Special Permit Granting Authority after consultation at the expense of the Applicant with one (1) or more insurance companies shall be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance shall be filed with the Special Permit Granting Authority.
- 105.2 An initial bond shall be posted for annual maintenance for any access road, site and Wireless Communications Facility in an amount approved by the Special Permit Granting Authority.
- 105.3 The Special Permit Granting Authority may require an additional financial performance guarantee to insure that facilities which have not been used for one year are removed.
- 105.4 Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute shall be filed with the Director of Inspections and the Special Permit Granting Authority by the Special Permit holder at the operator's expense.

ARTICLE XV IN-LAW APARTMENTS
(Amended September 12, 2005)

Section 22-110 Intent and Purpose

The purpose of this In-law Apartment Article is to expand the types of housing permitted in the City in order to provide opportunities for persons who may need or desire to share the premises of a single-family residence with relatives, to do so. It is intended that the provisions of this Article will be implemented in a manner which will protect the stability, property values, and single-family residential character of neighborhoods, and ensure building and health code compliance.

Section 22-111 Special Permit Procedures and Conditions

111.1 The Board of Appeals may authorize an In-Law Apartment as an accessory residential use by Special Permit in any residential district provided that each of the following standards and criteria are met:

111.1.1 The In-Law Apartment may be a complete, separate housekeeping unit that functions as a separate unit from the single-family residence of which it is a part. The purpose of this ordinance is to provide the in-law units for occupation by family members of the owner(s) of the single-family residence.

111.1.2 Only one In-Law Apartment may be created within a single-family residence.

111.1.3 An In-Law Apartment may only be created in a dwelling that would otherwise be classified as a single-family detached residence.

111.1.4 The lot on which the single-family residence is located must have a minimum of 10,000 square feet and must comply with all applicable zoning requirements for its district after the accessory apartment has been created.

111.1.5 Adequate provision must be made for the disposal of sewage, waste and drainage generated by the occupancy of the entire residence, including the In-Law Apartment, in accordance with the requirements of the Leominster Department of Public Works.

111.1.6 The In-Law Apartment shall be designed so that the appearance of the building remains that of a single-family residence as much as is feasibly possible. Any new entrances shall be located on the side and rear of the building.

111.1.7 The In-Law Apartment shall be clearly a subordinate part of the single-family residence. It shall be no greater than seven hundred (700) square feet nor have more than two (2) bedrooms.

111.1.8 At Least three (3) off-street parking spaces must be provided for any single-family residence that has an In-Law Apartment.

111.1.9 The construction of an In-Law Apartment must be in conformity with State Building Code Requirements.

111.1.10 An In-Law Apartment Special Permit shall be issued solely in the name of the record owner(s) of the single-family residence premises and shall automatically terminate upon either: (1) the transfer of the ownership of the premises, except in the instance where there is a transfer between co-owners; or (b) cessation of the record owner(s)' occupancy of either the single-family residence or the in-law apartment as his, her or their principal place of residence; or (c) permanent occupancy of either the single-family dwelling or the in-law apartment by persons unrelated to the record owner(s). For purposes of this subsection, a bona fide temporary absence will not be considered a cessation of occupancy, and a bona fide temporary occupancy by guests will not be considered permanent occupancy.

111.1.11 A Special Permit is issued for the In-Law Apartment accessory to a single-family residence shall not be construed as authorizing apartment, multi-family, or duplex use of the subject premises.

111.1.12 In order to provide for disabled and handicapped family members in accordance with G.L.c.40A, §3, The Board of Appeals may allow reasonable deviation from the above-stated conditions of this subsection where necessary to install features that facilitate access and mobility for disabled persons.

Section 22-112 Application Procedure

The application for the submission and approval of a Special Permit for an In-Law Apartment in an owner-occupied single-family residence shall be the same as prescribed in Section V, Article I, Section 22-13, Special Permits, except that the said Special Permit application shall also include a notarized letter signed by the record owner(s) of the premises stating that he/she/they intend to occupy one of the dwelling units, either the single-family residence or the In-Law Apartment, as his/her/their permanent principal residence, and stating the name(s) of the person(s) who will occupy the other dwelling unit as a permanent principal residence, as well as the relationship of each named person to the record owner(s).

Section 22-113 Transfer of Ownership of a Residence With an In-Law Apartment

113.1 As stated in subsection 22-111.1.10, each In-Law Apartment Special Permit shall terminate upon any transfer of title except between the owners of the single-family residence premises.

113.2 No successor in title to a single-family residence for which an In-Law Apartment Special Permit shall have been granted may use the apartment as a separate dwelling unit unless a new Special Permit is first obtained.

Section 22-114 Existing Accessory Dwelling Units

Any accessory dwelling unit existing in a single-family residence on the effective date of this Article, may continue in use, although not originally authorized under the Zoning Ordinance, provided that the record owner of the residence applies for and obtains an In-Law Apartment Special Permit under this Article within 90 days from said effective date and, thereafter, complies with all of the terms and conditions set forth in this Article and the Special Permit.

APPENDIX A

ORDINANCE CHANGES/ZONING MAP UPDATES

Section/Map	Amendment	Comments	Approval by Council
Map	Section 22-“Zoning”	Revised zoning map	8-12-02
22-24	Article II, 22-24.2.5	Mixed Use	1-27-03
22-24	Article II, 24.2.5.1	Mixed Use	1-27-03
22-24	Article II, 24.2.5.1.1	Mixed Use	1-27-03
22-24	Article II, 24.2.5.2	Mixed Use	1-27-03
22-26	Article II, Table of Uses	Mixed Use	1-27-03
22-4	Article I, Definitions	Mixed Use	1-27-03
22-23	Article II, 22-23.4	Site Plan/Commercial District	1-27-03
Map	86-88 Lancaster St.	See description this Appendix	11-24-03
Map	273 Lancaster St.	See description this Appendix	12-8-03
22-41	Article VI, 41.5.4	Watershed District	9-27-04
22-27	Article III, 27.4	Dimensional Regulations	9-27-04
22-27	Article III, 27.8 and footnote	Water Supply Protection District	9-27-04
22-26	Article II, Table of Uses	Martial Arts School/Studio	11-22-04
Map	Adams Street, Cotton Street, Cottage Street, Pleasant Street	See description this Appendix	1-10-05
22-16	Section 16.10 Use Regulations-Generally Permitted Uses	Use of existing building by Special Permit from City Council	7-25-05
22-26	Table of Uses	Storage and Distribution of Home Heating Fuels Under Industrial Uses	9-12-05
22-16	Article II, Use Regulation	In-Law Apartments	9-12-05
Map	Orchard Hill Park Drive	See description this Appendix	9-26-05
Map	Jytek Drive/Central St.	See description this Appendix	11-14-05
22-16	Article II, Use Regulations	Use of Undeveloped (Vacant) Lots	3/27/06

ZONING MAP UPDATES

Be it ordained by the City Council of the City of Leominster, as follows:

Chapter 22 of the Revised Ordinances entitles “Zoning” is hereby amended by adopting the revised computer generated Zoning Map proposed by the Planning Board, which is easier to read and clarifies the zoning district boundaries. The Zoning Map is further amended by correcting the zoning designation of Lots 9A, 9B and 11 on the Assessors Map 355 to Business B, as the designation was inadvertently changed on the Zoning Map adopted on July 10, 2001. *(Adopted August 12, 2002)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by altering the Zoning Map, such that the parcel identified as Lot #1 on Assessors Map 18, further identified as 86-88 Lancaster Street, said lot containing 11,113 square feet of land, more or less, shall be located entirely within the Commercial zoning district. *(Adopted November 24, 2003)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by altering the Zoning Map, such that the parcel identified as Lot #10 on Assessors Map 484, further identified as 273 Lancaster Street, said lot containing 17,696 square feet of land, more or less, shall be located entirely within the Commercial zoning district. *(Adopted December 8, 2003)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that parcels of land located at the southwest corner of the intersection of Adams and Cotton Street are changed from Industrial (I) to Residence C (RC) as shown on Assessors Map 4, as lots 1 (4.52 acres) and 2 (0.2 acres); and so that a parcel of land continuous to those parcels and westerly of Adams Street, southerly of Cotton Street, easterly of Cottage Street and northerly of Pleasant Street is changed from Business B (BB) to Residence C (RC) as shown on Assessors Map 3, as lot 14C (0.55 acres), total area to be rezoned is 5.27 acres. *(Adopted January 10, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that a portion of a parcel of land located off Orchard Hill Park Drive and Pioneer Drive, identified as Parcel #4 on a map entitled “Plan to Accompany a Petition for Zoning Change,” by Whitman & Bingham Associates, dated June 8, 2005, as on file with the City Clerk, is changed from Rural Residence (RR) to Industrial (I), total area to be rezoned being approximately 3.86 acres. *(Adopted September 26, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that property at Jytek Drive and Central Street, currently zoned as Industrial and identified as Assessors Map 499, Lots 12, 21, 22 and 36, is located entirely within the Commercial zone. *(Adopted November 14, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that eight (8) parcels at 62-66 Spruce Street, currently zoned as Industrial and identified as Assessors Map 40, Lots 1, 2, 3, 5, 6, 6A and 17, are located entirely within the Residence C zone. *(Adopted March 13, 2006)*